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GENERAL PROVISIONS

§ 154.100 TITLE.

This chapter shall be officially known as the Zoning Code of the City of Morehead and Rowan County, Kentucky and may be so cited. It shall be referred to herein as the "zoning code."
(Ord. passed 5-11-78)

§ 154.101 PURPOSE.

The zoning regulations and zones (districts) as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health and safety, and the convenience, order, prosperity, and general welfare of the community. They have been designed to lessen congestion in the streets; to secure safety from fire, panic,

and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city and county.
(Ord. passed 5-11-78)

§ 154.102 INTENT.

For the purpose of this zoning code all words used in the present tense also include the future tense. All words in the plural include the singular, and all words in the singular include the plural, unless the natural construction of the word indicates otherwise. The word "SHALL" is mandatory and directory. The word "USES" includes designed, intended, or arranged to be used.
(Ord. passed 5-11-78)

§ 154.103 DEFINITIONS.

For purposes of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

"ACCESSORY BUILDING OR STRUCTURE." A subordinate building or structure, the purpose of which is customarily incidental to that of the principal use or building on the same lot. Where an accessory building is attached to the side or front of a principal building by a wall or roof, the accessory building shall be considered part of the main building for the purpose of determining the required dimensions of yards, but if it is attached completely to the rear of all portions of the principal building, it may be considered an accessory building for determining required yard dimensions.

"AGRICULTURAL." The use of land for farming, raising, tending, or harvesting crops of all kinds; dairying and raising animals and other similar uses; and the necessary accessory uses for storing or treating any product that is grown or raised on the farm.

"BOARDING HOUSE." Any dwelling in which more than three (3) persons, either individually or as families, are house or lodged for hire, with or without meals. A "ROOMING HOUSE" shall be deemed a "BOARDING HOUSE."

"BUFFER AREA." A continuous strip of trees or shrubs not less than 6 feet in height, designed to restrict a clear view, and reduce noise beyond the strip.

"BUILDING." Any structure designed to be used for the shelter or enclosure of persons, animals, or property.

"BUILDING AREA." The aggregate of the areas of all enclosed and roofed spaces of the principal building, and all accessory buildings. These areas shall be computed by using the dimensions of the outside building measured on a horizontal plane at ground level.

"BUILDING HEIGHT." The vertical distance from the established average sidewalk grade, street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

"BUILDING INSPECTOR." The officially designated person or persons with the responsibility verifying compliance with the zoning ordinance within Morehead and Rowan County.

"BUILDING LINE." A line established by the zoning ordinance-resolution, generally parallel with and measured from the lot line or street right-of-way.

"BUILDING PERMIT." A permit issued by the building inspector authorizing the construction or alteration of a specific structure on a specific lot.

"BUILDING, PRINCIPAL." A building in which is conducted the main or principal use of the lot on which the building is situated.

"CERTIFICATE OF OCCUPANCY." A certificate issued by the building inspector upon completion of the construction or alteration of a building. The certificate shall acknowledge compliance with all requirements of the last building permit issued for the structure, the adjustments granted by the board of adjustment, and all other applicable requirements.

"CUL-DE-SAC." A circular paved area used at a dead-end street for reversing the flow of vehicle traffic.

"DWELLING UNIT." One or more rooms providing living quarters for one family, including equipment for cooking and provisions for the same.

"DWELLING, SINGLE-FAMILY." An enclosed structure or portion thereof containing no more than one dwelling unit or not more than one housekeeping unit.

"DWELLING, MULTIFAMILY." An enclosed structure or portion thereof containing more than one dwelling unit or no more than one housekeeping unit.

"FACADE." The front side or front wall of a business establishment.

"HOME OCCUPATION." Any occupation carried on as a subordinate use by a member of the family residing on the premises of a residential lot, the primary use being a dwelling unit.

"LOT." A parcel or area of land, the dimensions and extent of which are determined by the latest official records, or by the latest approved map of a subdivision of which the lot is a part.

"LOT AREA." An area of land which is determined by the limits of the lot lines bounding that area, and expressed in terms of square feet or acres. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area or setback lines.

"LOT, CORNER." A parcel of land at the junction of and fronting on 2 or more intersecting streets.

"LOT WIDTH." The distance between the side lot lines measured at a point which constitutes the actual front of the proposed building site.

"MOBILE HOME." Any vehicle or similar portable structure having been constructed with wheels (whether or not the wheels have been removed), and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

"NONCONFORMING BUILDING." A building which in its design or location upon a lot does not conform to the regulations of this zoning ordinance-resolution for the zone in which it is located.

"NONCONFORMING LOT." A lot of record existing at the date of the passage of this zoning code which does not have the minimum width or contain the minimum area for the zone in which it is located, according to this zoning code.

"NONCONFORMING USE." Use of a building or of land that does not conform to the regulations of the zone in which it is located, according to this zoning code.

"PARTY WALL." An artificial barrier constructed along a property boundary line, usually used to retain earth.

"PERMANENT FOUNDATION." An area designated for the purposed of planing a mobile home, consisting of a 4-inch concrete slab, or 14 inch number 3 crushed stone, topped with 2 inches of dense crushed stone totaling 16 inches. Both include tie-down pins and suitable under-pinning. The minimum width and length shall be as great as the width and length of the structure placed upon it.

"PLANNING COMMISSION." The Morehead-Rowan County planning Commission.

"SCREEN." A continuous strip of trees, shrubs, or fence, not less than 6 feet in height, that is designed to restrict a clear view beyond the screen.

"SETBACK LINE." The distance required by this zoning code to be maintained between a given lot line and any structure-front, rear, or side, as specified, or a street right-of-way line.

"SIGN." Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge, or insignia of any public, semi-public, civic, charitable, or religious groups.

"SIGN, AREA." The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by the projected, enclosed, 4-sided (straight sides) geometric shape which most closely outlines the sign.

"TEMPORARY STRUCTURE." A temporary structure shall refer to:

(A) Any freestanding, attached, or portable structure of a temporary character, unfinished basement, shack, camper, shelter, cabin, shed, building, cabana, booth, stand, lean-to, kiosk, tent tepee, canopy, awning, covering, enclosure, cage, pen, platform, riser, stage, deck, bridge, tower, walkway, fence, screen, barricade, sign, marquee, trailer or any combination thereof or anything of a similar nature.

(B) The temporary structure shall be of whatever materials, roofed or un-roofed, floored or un-floored, one (1) or more sides, lighted or unlighted.

(C) The temporary structure shall not exceed fourteen (14) feet in height.

(D) The temporary structure shall be permitted to be erected for a specified location, purpose and time period. The allotted time period shall not exceed sixty (60) days or the duration of the related event or need, whichever is less.

(E) No structure of a temporary nature shall be used on any lot at any time as a residence.

"TRAVEL TRAILER." Trailers which are used primarily for travel and camping excursions, and which are not connected to utilities when not in use, and which are not utilized for purpose of day-to-day habitation.

"YARD, FRONT." An open, unoccupied space on the same lot with the principal building, extending the full width of the lot, and situated between the street right-of-way line and the front yard building setback line of the building projected to the side lines of the lot.

"YARD, REAR." An open, unoccupied space extending across the full width of the lot, and lying between the rear line of the lot and the nearest line of any principal building on the same lot.

"YARD, SIDE." An open, unoccupied space between the side line of the lot and the nearest line to the building, and extending from the front yard to the rear yard.

"ZONE." An established area within Morehead or Rowan County in

which the provisions of this zoning code are applicable.
(Ord. passed 5-11-78; Am. Ord. 34:97, passed 10-13-97)

§ 154.104 INTERPRETATION.

In the application and interpretation of this zoning code, all provisions shall be held to be minimum requirements adopted for the promotion of health, safety, comfort, prosperity, and general welfare. This zoning code is in no way intended to repeal, overrule, void, or in any way interfere with any provisions of law, ordinance, or resolution, except those specifically repealed under § 154.105, or with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued, pursuant to law, relating to the use of buildings or premises, or with any private restrictions placed upon property by resolution imposing greater restriction upon the use of the land or buildings than are required by an existing provision or law, ordinance, resolution, permit, or private restrictions. The provision of this zoning code shall take precedence in all cases except as stated above. The zoning code has been prepared to be applicable to both the city and the county. The accompanying maps will designate which bodies have adopted the zoning code. The fact that either governmental unit has not adopted this code does not affect the other unit, nor invalidate this document in any manner nor any portion of this document.
(Ord. passed 5-11-78)

OFFICIAL ZONING MAP AND SCHEDULE

§ 154.110 OFFICIAL ZONING MAP.

Morehead and Rowan County are divided into zones as provided herein, and as shown on the zoning map dated May 11, 1978, and which are adopted by reference, and declared to be a part of this zoning code. These zoning maps, which apply to the city and county, shall be labeled as "The Official Zoning Maps," and shall be the official records of the zoning status of all land within the above city and county, and shall be kept on file in the city Building Inspector's office, and shall be known as the "zoning maps."
(Ord. passed 5-11-78)

§ 154.111 ZONING MAP AMENDMENTS.

Any amendment to the zoning map which changes the zoning status of any area as ordained by the appropriate legislative body after the effective date of this zoning code shall be promptly posted on the appropriate zoning map by the Building Inspector. Each amendment shall be identified on the map with a reference to the date the appropriate legislative body passed the amendment to the map. Each amendment shall be filed at the County Court Clerk's office. (Ord. passed 5-11-78)

§ 154.112 PLACEMENT OF OFFICIAL ZONING MAP.

A duplicate copy of the official zoning map shall be filed in the office of the County Court Clerk. In the event of damage, destruction,
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or loss of the official map or parts of it, the copy on file in the office of the County Court Clerk shall become the official zoning map, and shall be filed in the Morehead County Building Inspector's office. At this time, another duplicate copy shall be filed in the County Court Clerk's office. (Ord. passed 5-11-78)

§ 154.113 INTERPRETATION OF ZONE BOUNDARIES.

Where uncertainty exists as to any boundary shown on the official map, the following rules shall apply:

(A) Zone boundary lines are intended to follow the center lines of streets, railroad right-of-ways, streams, and lot or property lines as they exist on plats or records at the time of passage of this zoning code, unless the zone boundary lines are fixed by dimensions shown on the zoning map.

(B) Where the boundaries are not fixed by dimensions, and where they approximately follow lot lines, and where they do not scale more than ten (10) feet distance therefrom, the lot lines shall be constructed to be the boundaries, unless specifically shown otherwise.

(C) In subdivided land, and where a zone boundary divides a lot, the location of the boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale on it.

(D) In instances where the above stated rules do not clearly indicate the exact location of zone boundaries, boundaries shall be interpreted by the Board of Adjustment as provided for in §§ 154.210 through 154.213. (Ord. passed 5-11-78)

§ 154.120 APPLICATION OF REGULATIONS.

(A) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the zone where it is located, unless otherwise specifically permitted in this zoning code.

(B) No building or other structure shall hereafter be erected or altered to:

(1) Exceed the height or bulk;

(2) Accommodate or house a greater number of families;

(3) Occupy a greater percentage of lot area; or

(4) Have narrower or smaller front, side, or rear yards, or other open space, than herein permitted.

(C) No part of a yard, open space, off-street parking, loading space, or other special use area required in connection with any building or land for the purpose of complying with this zoning code shall be included as part of a yard, open space, off-street parking, loading space, or other special use area similarly required for any other building or land, unless otherwise specifically permitted herein.

(D) No yard or lot existing at the time of adoption of this zoning code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this zoning code shall meet at least the minimum requirements established herein. No conditional uses shall be permitted.

(E) No lot shall have erected upon it more than one principal residential building, except for group housing in the R-3 Residential Zones.

(F) An accessory building attached to a principal building shall comply in all respects with the yard requirements stated herein. Detached accessory buildings shall be located to the rear of the front building line of the principal building, and if located

in a side yard area, shall conform to side yard requirements contained in the schedule.

(G) All yards facing a public street shall be considered front yards, and shall conform to the minimum front yard requirements for the zone in which it is located. Corner lots shall provide the minimum front yard requirements for the respective zone for both intersecting streets, and for both principal and accessory buildings.

(H) Variances or conditional uses may be granted by the board of zoning adjustment to all sections above and, provided for in KRS §§ 100.237, 100.241, 100.243, 100.247, 100.251, 100.253, and 100.257. (Ord. passed 5-11-78)

§ 154.121 CONVERSION OF DWELLINGS.

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this zoning code, and only when the resulting occupancy will comply with the requirements governing new construction in the zone with respect to minimum lot size, floor area, dimensions of yards, and other open spaces, and off-street parking. Each conversion shall be subject also to further requirements as may be specified hereinafter applying to the zone. The above requirements with respect to yards and other open spaces shall not apply if the conversion will not involve any exterior structural changes.

§ 154.122 STREET CLOSURES.

Whenever any street, alley, or other public way is vacated by official action of the appropriate governing body, the zone boundary shall be automatically extended to the center of the vacated public way, and all areas included in the vacated area in question shall be subject to all appropriate regulations of the extended area.

(Ord. passed 5-11-78)

§ 154.123 LOCATION OF ACCESSORY BUILDINGS.

No accessory building shall be erected in any yard other than a rear yard or side yard. However, an accessory building may be erected as part of the principal building, and provided it meets all yard requirements within each zone. (Ord. passed 5-11-78)

§ 154.124 FALLOUT SHELTERS.

Fallout shelters shall be permitted in all zones subject to the yard, height, area, and other regulations for the zone in which the shelter is located. (Ord. passed 5-11-78)

§ 154.125 AGRICULTURAL LAND USE EXEMPTIONS.

Notwithstanding any other provision of this zoning code, land which is used solely for agricultural, farming, dairying, stockraising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location, or courts requirements for agricultural buildings, except that setback may be required for the protection of existing and proposed streets and highways, and that all buildings or structures in a designated floodway or floodplain, or which tend to increase flood heights or obstruct the flow of floodwaters, may be fully regulated as provided in KRS § 100.203. (Ord. passed 5-11-78)

§ 154.126 LOTS OF RECORD.

(A) Lots of record which exist in Rowan County or any municipality therein, and which were legally platted or subdivided prior to the adoption of this zoning code, and which cannot meet the area or yard requirements contained herein, may be utilized for any permitted use within the zone where the lot is located, provided there is no conflict with any other building or health regulation.

(B) In areas where the lot area cannot be met, the board of adjustment may grant a variance upon request. A variance from the literal terms of the regulations shall be given the least amount necessary to allow a reasonable use on the land, and remain in keeping with the general intent and purpose of each zone. In granting the variance, the Board may require other conditions as deemed necessary to protect the character of surrounding properties. (Ord. passed 5-11-78)

§ 154.127 REDUCTION OF LOT AREA PROHIBITED.

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per dwelling, lot width, building area, or other lot requirements of this code are not met. This section shall not apply when a portion of the lot is acquired for public purposes. (Ord. passed 5-11-78)

§ 154.128 RECONSTRUCTION OF NONCONFORMING STRUCTURES.

(A) Any structure containing a nonconforming use which has been damaged to the extent of 50% or more of its replaceable value, exclusive of foundations, shall not be repaired or reconstructed, except in conformity with this code.

(B) All nonconforming junkyards, lumberyards, freestanding signs, and billboards, and similar uses of open land not involving an investment in permanent buildings of 50% or more of the assessed valuation of the land on which they stand shall be torn down, altered, or otherwise made to conform with the provisions of this code within 2 years from the date of its enactment.

(Ord. passed 5-11-78)

ZONE REGULATIONS

§ 154.130 AGRICULTURE ZONE (A).

(A) Intent. The purpose of this district is to serve as a holding classification for land which may eventually be required for more intensive uses. The regulations for the agricultural zones discourage the premature urban development of the rural areas, and discourage or prohibit all commercial or industrial development, except for certain agriculturally related commercial or industrial activity permissible by special exception, and certain recreational activities not inappropriate for the zones.

(B) Uses permitted.

(1) All forms of agriculture, including crop production, livestock production, dairying and related activities, including customary farm buildings and structures.

(2) Retail sales of agricultural products and services produced on the premises.

(3) Single-family residences.

(4) Home occupations.

(C) Accessory structures and uses permitted.

(1) All types of agricultural buildings and structures.

(2) All types of accessory structures and uses permitted in any residential zones, including private swimming pools, television antennas, noncommercial garages and carports, tenant homes, and the keeping of roomers and boarders by a resident family.

(D) Conditional uses permitted.

(1) Churches, schools, community centers, public parks, cemeteries, and public utilities, as governed by KRS § 100.324.

(2) Animal hospitals, veterinary clinics, and commercial animal kennels.

(3) Private outdoor recreational developments such as hunting preserves, golf courses, pay fishing lakes, boat docks, and other similar uses.

(4) Sanitary landfills for refuse disposal, when in conformance with standards set forth by the Kentucky EPA and the state Board of Health. (Ord. passed 5-11-78)

§ 154.131 RURAL SETTLEMENT ZONE (RS).

(A) Intent. This zone consists of an area one mile in diameter centered over each of several small, unincorporated rural settlements in and around Morehead. This zone is intended to preserve the rural service nature of the settlements, but yet permit expansion of residential and rural service business developments. Until such time as adequate facilities are provided, urban development at urban densities is discouraged, and every use within the Rural Settlement Zone, outside of those permitted in the Agriculture Zone, are treated as conditional uses. This is to encourage proper use of the available land within the zone.

(B) Uses permitted.

(1) All forms of agriculture, including crop production, livestock production, dairying, and related activities, including customary farm buildings and structures.

(2) Retail sales of agricultural products and services produced on the premises.

(3) Home occupations.

(C) Accessory structures and uses permitted.

(1) Businesses of a rural service nature such as grocery stores, service stations, farm supply stores, and other similar retail trade and service type businesses.

(2) Churches, schools, community centers, public parks, cemeteries, and public utilities; private and public outdoor recreational development; animal hospitals or veterinary clinics.

(D) Conditional uses. Any use not specifically stated above shall be considered a conditional use within this zone.

(E) Public hearings for all conditional uses in RS Zone. Before a permit will be issued to construct any conditional use within the Rural Settlement Zone, the Planning Commission shall conduct a public hearing. This would give residents within the zone an opportunity to voice their feelings on the proposed development before any decision is reached. (Ord. passed 5-11-78)

§ 154.132 LOW DENSITY RESIDENTIAL ZONE (R-1).

(A) Intent. The purpose of this zone is to provide space for low density single-family dwellings which are provided with approved public water and sewer systems.

(B) Uses permitted. Single dwellings, customary general horticultural uses, and accessory buildings incidental thereto.

(C) Conditional uses permitted.

The following are special exceptions and require written approval of the board of adjustment:

(1) Churches and other places of worship.

(2) Parish houses.

(3) Public parks and noncommercial public recreational facilities.

(4) Cemeteries.

(5) If a dwelling has been occupied for a minimum of one year following its construction, the interior may be altered to permit 2 families to inhabit the structure, provided the owner is the principal occupant.

(6) Professional offices, studios, or customary incidental home occupations conducted within the principal building, but only by a person resident in the dwelling, provided no more than one person not a resident of the premises is employed regularly, and that not more than 25% of the total floor area in any dwelling unit is devoted to the use. For the purpose of advertising the use, one unlighted sign not over 6 square feet in area may be used. No displays or change in facade shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a dwelling.

(7) The Board of Adjustment may attach certain conditions and requirements to its approval which it feels are necessary in order to preserve and protect the character of the district in which the proposed use would be located.

(D) Accessory buildings. Accessory buildings or uses customarily incidental to any of the above permitted uses, except that no repair garages or barns for storage will be permitted.

(E) Uses prohibited. All uses other than those specifically permitted by this section shall be prohibited.

(F) Height. No building shall exceed 2 stories or 30 feet in height, unless each side yard is increased over the required minimum by 5 feet for every 5 feet, or fraction thereof, of additional height over 30 feet.

(G) Front, side, and rear yard setback requirements.

(1) Front yard - 30 feet.

(2) Side yard - 15 feet.

(3) Rear yard - 25 feet.

(H) Accessory buildings. Unattached one-story buildings of accessory use, unless there is a party wall, shall be at least ten (10) feet from all lot lines.

(I) Setback line on corner lots. The setback requirements for all principal buildings on corner lots shall be a minimum of thirty (30) feet on both the main and side streets. Accessory buildings shall conform to setback lines established on either street.

(J) Required lot area and lot width in R-1 Zones. In areas served by sewer systems acceptable to the public health department, the minimum required lot area for a one-family dwelling shall be ten thousand (10,000) square feet, and the minimum required lot width at the building line shall be eighty (80) feet, unless there is an approved cul-de-sac. In areas not served by approved sewer systems, the minimum lot size shall be forty-three thousand five hundred sixty (43,560) square feet, as required by the Public Health Department.
(Ord. passed 5-11-78)

§ 154.133 MEDIUM DENSITY RESIDENTIAL ZONE (R-2).

(A) Intent. The purpose of this zone is to provide, in addition to single-family residences, space for duplex homes, and the customary accessory uses and structures in areas which can be provided with approved sewer and water services.

(B) Uses permitted. Any use permitted in the R-1 Residential Zone, and apartment buildings up to five (5) dwelling units. Buildings with three (3) dwelling units or more must be accompanied by a development plan and have prior approval of the Planning Commission.

(C) Conditional uses permitted. Any conditional use permitted in the R-1 Residential Zone with the following additional uses:

(1) Individual mobile homes, provided the lot size and setback standards meet the requirements of the R-2 Zone, provided they are set on a permanent foundation, and have the proper utility hookups.

(2) Rooming and boarding houses, provided that not more than four (4) guests are dwelling there.

(3) Day nursery facilities for children.

(4) Professional offices, studios, or customary incidental home occupations conducted within the principal building, but only by a person resident in the dwelling, provided, not more than one person not a resident of the premises is employed regularly, and that not more than twenty-five percent (25%) of the total floor area in any dwelling unit is devoted to the use. No displays or change in facade shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a dwelling.

(D) Accessory structures and uses permitted. Any accessory structure or use permitted in the R-1 Residential Zone.

(E) Uses prohibited. All uses other than those specifically permitted by this section shall be prohibited.

(F) Height. Same height requirement as permitted in the R-1 Residential Zone.

(G) Side, front, and rear yards setback requirements.

(1) Front yard - Thirty (30) feet.

(2) Side yard - Twelve (12) feet.

(3) Rear yard - Twenty (20) feet.

(H) Side yards on corner lots. Same requirements as permitted in the R-1 Residential Zone.

(I) Required lot area and lot width. In area served by sewer systems acceptable to the Public Health Department, the minimum systems acceptable to the Public Health Department, the minimum required lot area for a single-family residence shall be six thousand five hundred (6,500) square feet, and the minimum required lot width at the building line shall be sixty-five (65) feet. For each additional dwelling unit, an additional two thousand (2,000) square feet shall be added to the lot size. In areas not served by approved sewer systems, the minimum lot size shall be Forty-three thousand five hundred sixty (43,560) square feet, as required by the Public Health Department.

(Ord. passed 5-11-78; Am. Ord. 05:99, passed 3-8-99; Am. Ord. 06:2013, passed 5-13-13)

§ 154.134 HIGH DENSITY RESIDENTIAL ZONE (R-3).

(A) Intent. The purpose of this zone is to provide space for high density residential units up to a maximum of fifteen (15) dwelling units per net acre. Single-family and duplex units are required to have a minimum of five thousand eight hundred (5,800) square feet of land. Three (3) unit to fifteen (15) unit dwellings are required to have a minimum of two thousand nine hundred (2,900) square feet of land per unit. Any structural unit with three (3) or more dwelling units must be accompanied by a development plan, and have prior approval of the planning commission. Any proposed planned unit structure exceeding thirty (30) feet in height must, prior to construction, have a development plan and approval of the Planning Commission. Requests for a reduction in lot size or setbacks for residential use will not be permitted in this zone.

(B) Uses permitted.

(1) Any use permitted in the R-1 or R-2 Residential Zone, and in addition, multifamily dwellings, tourist homes, boarding houses, and planned mobile home parks.

(2) Parking lots, where adequate screening is provided between the lot and adjoining residential property.

(C) Conditional uses permitted.

(1) Any conditional use permitted in the R-1 or R-2 Residential Zone.

(2) Professional office space and other commercial uses.

(3) Buildings to house fraternities and sororities.

(4) Individual mobile home if it meets all setback and lot area requirements, and if established on a permanent foundation.

(D) Accessory structures and uses permitted. Any accessory building or use permitted in the R-1 or R-2 Residential Zone.

(E) Height. No building shall exceed thirty (30) feet without having a unit development plan, and the approval of the planning commission.

(F) Side, front, and rear yard setback requirements.

(1) Front yard - Thirty (30) feet setback.

(2) Side yard - Eight (8) feet.

(3) Rear yard - Twenty (20) feet.

(G) Required lot area and lot width in an R-3 Residential.

(1) Minimum required lot area for a multifamily dwelling shall be six thousand (6,000) square feet, and the minimum required lot width at building line for multifamily dwelling shall be sixty-five (65) feet.

(2) Corner lots shall meet the same requirements as an R-1 Zone.

(Ord. passed 5-11-78; Am. Ord. 06-2013, passed 5-13-13)

§ 154.135 GENERAL BUSINESS ZONE (B-1).

(A) Intent. This zone is established to accommodate all types of retail sales and services, including those permitted in all other commercial zones, but not limited strictly thereto. This zone differs from the Central Business District in that off-street parking is required on the lot, and uncovered outdoor storage is permitted.

(B) Uses permitted. Any use permitted in an R-3 Zone, and any commercial, retail trade, or service use not specifically prohibited.

(C) Conditional uses.

(1) Any business which is primarily of a wholesale storage, warehousing, or manufacturing nature.

(2) Animal hospital.

- (3) Dairy.
- (4) Bottling works.
- (5) Dry cleaning plants.
- (6) Electric welding.
- (7) Ice plant.
- (8) Trucking terminals.

(9) Any existing or proposed use not specifically stated above shall be treated as a conditional use.

(D) Uses prohibited.

- (1) Coal or lumber processing.
- (2) Live animal or poultry sales.
- (3) Tobacco warehouses.

(4) Gasoline, oil, alcohol, or LP gas storage above ground, in excess of five hundred (500) gallons.

(5) Any similar uses which in the opinion of the Board of Zoning Adjustment would be detrimental to the development of the general business zone as a retail shopping area.

(E) Required lot area and yard area.

(1) All buildings intended for residential use, in whole or in part, shall meet at least the area and yard requirements of an R-3 District.

(2) All buildings on lots adjacent to a residential zone shall be located so as to conform on the adjacent side with yard requirements for that residential district.

(3) All business buildings located on corner lots shall have a minimum setback requirement of fifteen (15) feet from both streets. A residence located on a corner lot must meet at least the minimum requirements of an R-3 Residential Zone.

(4) All buildings shall meet height requirements for residential zones, except as provided for in § 154.134(A).
(Am. Ord. 22:2012, passed 9-10-12)

§ 154.136 HIGHWAY BUSINESS ZONE (B-2).

(A) Intent. The purpose of the Highway Business Zone is to encourage the establishment of areas for highway business uses

only. This zone is specifically designed to service the motoring public.

(B) Uses permitted. Same as B-1, except that a minimum setback is required. The setback of structures in this zone shall be 25 feet from the highway right-of-way, or 40 feet from the pavement edge, whichever is less.

(C) Uses prohibited. Same as B-1.

(D) Required lot area and yard area.

(1) All buildings intended for residential use, in whole or in part, shall meet at least the area and yard requirements of an R-2 District.

(2) All buildings on lots adjacent to a residential zone shall be located so as to conform on the adjacent side with side yard requirements for that residential district.

(3) All business buildings located on corner lots shall have a minimum setback requirement of 15 feet from both streets. A residence located on a corner lot must meet at least minimum requirements of an R-3 Residential Zone.

(4) All buildings shall meet height requirements for residential zones except as provided for in § 154.134 (A).

§ 154.137 CENTRAL BUSINESS DISTRICT (B-3).

(A) Intent. The purpose of this zone is to provide space for those retail sales and services that generally serve the entire community, and can best perform that service form a centralized location. Off-street parking shall not be required.

(B) Uses permitted.

(1) Any use permitted in an R-3 Residential Zone.

(2) Retail stores, shops, and markets.

(3) Personal services.

(4) Offices and business services.

(5) Banks and financial institutions.

(6) Indoor recreation facilities.

(7) Indoor restaurants and eating establishments.

(8) Repair services.

(C) Uses prohibited.

(1) Any business which is primarily of a wholesale, storage, warehousing, or manufacturing nature.

(2) Animal hospital.

(3) Coal or lumberyard.

(4) Dairy.

(5) Bottling works.

(6) Dry cleaning plants.

(7) Electric welding.

(8) Live animal or poultry sales.

(9) Gasoline, oil, alcohol, or LP gas storage above ground, in excess of 500 gallons.

(10) Ice plant.

(11) Any uses which in the opinion of the board of zoning adjustment would be detrimental to the development of the Central Business District as a retail shopping area.

(D) Required lot area and yard area.

(1) All buildings intended for residential use, in whole or in part, shall comply with the area and yard requirements of an R-3 District.

(2) All buildings on lots adjacent to a residential district shall be located so as to conform on the adjacent side with the side yard requirements for that residential district.

(3) All business buildings locate on corner lots shall have a minimum setback requirement of 15 feet from both streets. A residence located on a corner lot must meet at least the minimum requirements of an R-3 Residential Zone.

(4) All buildings shall meet height requirement for residential zones except as provided for in § 154.134 (A).

(5) A minimum setback of 10 feet form the curb or edge of street shall be required for commercial structures within this zone. (Ord. passed 5-11-78)

§ 154.138 LIGHT INDUSTRIAL DISTRICTS.

(A) Intent.

(1) This industrial zone is intended primarily for manufacturing and assembly type plants, warehousing, wholesale establishments, and other similar uses which are conducted with a minimum of noise, glare, vibrations, odor, dust, and other objectionable characteristics.

(2) This does not rule out heavy industry if it meets all requirements with the surrounding environment.

(3) A development plan shall be required.

(B) Uses permitted.

(1) Any use permitted in central business districts, except that no building, structure, or portion thereof shall be erected, constructed, or converted for any dwelling use.

(2) Wholesale.

(3) Storage.

(4) Warehouse.

(5) Animal hospital.

(6) Bakery.

(7) Bottling works.

(8) Building material yard.

(9) Cabinetmaking.

(10) Carpenters shop.

(11) Clothing manufacture.

(12) Dairy.

(13) Dyeing and dry cleaning works.

(14) Fruit canning and packing.

(15) Ice plants.

(16) Laundry.

(17) Milk distribution station.

(18) Optical goods.

(19) Printing.

(20) Publication or engraving.

(21) Trucking terminal.

(22) Gasoline, oil, alcohol, or LP gas storage above ground, in excess of 500 gallons, and other industrial uses not listed above shall be considered special exceptions, and will require written approval of the board of zoning adjustment. The board shall grant approval if it determines that the proposed use will not constitute a fire hazard or emit smoke, noise, odor, or dust which would be obnoxious or detrimental to neighboring properties.

(C) Required side yards. On lots adjacent to a residential district, all buildings shall be located so as to provide a minimum side yard of 25 feet on the side adjacent to the residential district. Streets or public rights-of-way cannot be included as part of side yard requirements of this division.

(D) Accessory structure and uses permitted. Any accessory structure or uses customarily incidental to the preceding permitted uses.

(E) Uses prohibited.

(1) Any industrial use which in the opinion of the Planning Commission of Building Inspector may generate significant noise, odor, dust, or glare, or possess other characteristics which might prove detrimental to existing or future surrounding uses.

(2) Any industrial use which in the opinion of the planning commission or building inspector may generate unusual demands or overburden the public sewage collection and treatment facilities or water facilities. (Ord. passed 5-11-78)

§ 154.139 PUBLIC AND SEMIPUBLIC LAND.

(A) Intent.

(1) The purpose of this zone is to identify land which is owned by a public entity, including schools, cemeteries, parks, playgrounds, and forest service land; and is used for public purposes.

(2) Any change in the use of these lands will require approval by the Planning Commission. (Ord. passed 5-11-78)

MOBILE HOMES AND MOBILE HOME PARKS

§ 154.150 INTENT.

The purpose of §§ 154.150 through 154.158 is to set forth minimum requirements governing the location and installation of mobile homes and mobile home parks. Mobile homes comprise a rapidly increasing percentage of the total number of new dwelling units, and it is considered imperative that the community's zoning regulations

recognize the importance of this industry in the overall housing market, and provide minimum standards for governing their location within the city and county. (Ord. passed 5-11-78)

§ 154.151 MOBILE HOMES PERMITTED.

(A) Individual mobile homes used for dwelling purposes may be located on individual lots within the Agricultural Zone, the Rural Settlement Zone, and the R-2 and R-3 Residential Zones, provided they meet all requirements established for conventional single-family housing within these zones.

(B) If a mobile home lot does not meet the requirements of a single-family dwelling, it shall be permitted only in approved mobile home parks, which shall be permitted within the R-3 Residential Zones subject to a development plan approved by the planning commission. (Ord. passed 5-11-78)

§ 154.152 AREA AND DENSITY REQUIREMENTS.

(A) No mobile home park shall be permitted on an area of less than 3 acres in size, although the developer shall be permitted to develop the park in stages as long as he complies with a development plan covering the entire tract approved by the Planning Commission, and meets all conditional use requirements established by the board of zoning adjustment. The number of mobile homes permitted in mobile home parks shall be determined by the Public Health Department.

(B) Lot requirements. Individual lots within a mobile home park shall not be less than 4,000 square feet in area, and in no instance shall more than one mobile home be permitted on a single lot. The minimum lot width shall be 40 feet.

(C) Setback. No mobile home or accessory building or structure shall be located closer to any street than the minimum front yard setback required for conventional residential structures along the street. Where the mobile home park is not bounded by a dedicated street, the minimum setback from the property line shall be 30 feet.

(D) No mobile home shall be located within 26 feet from another mobile home, except that a minimum end-to-end clearance of not less than 15 feet shall be permitted, and in instances where the sides opposite the entrance of 2 mobile homes face each other, the amount of space may be reduced to not less than 20 feet. (All regulations are set by the Stat of Kentucky). (Ord. passed 5-11-78)

§ 154.153 UTILITIES.

All lots within mobile home parks shall be provided with the necessary utilities meeting the standards specified within the community's existing or amended building, housing, and electrical codes, and each mobile home shall be properly connected with the utilities. Each mobile home park shall be provided with sewage

facilities that will satisfy all requirements of the county and state Health Departments. Plans shall include adequate lighting for the entire park, and shall include a garbage pickup plan.
(Ord. passed 5-11-78)

§ 154.154 ACCESSORY STRUCTURES.

No accessory building or structure, including patios, shall be located closer than 10 feet from any lot line. (Ord. passed 5-11-78)

§ 154.155 ACCESS ROAD AND DRIVES.

Any street to be dedicated to the city or county must meet the street requirements set forth in the local subdivision regulations, or accepted by the county or city in the absence of subdivision regulations. (Ord. passed 5-11-78)

§ 154.156 SCREEN.

A fence or screen may be required on any or all sides of a mobile home park, if deemed necessary by the Planning Commission.
(Ord. passed 5-11-78)

§ 154.157 PARKING REQUIRED.

(A) There shall be provided on the same lot with each mobile home space, or on the same lot with each mobile home space, or on a lot contiguous thereto, at least 2 parking spaces.

(B) The required parking spaces may be located within the access road or drive, provided that the width of the access road or drive is increased to a minimum of 36 feet, and that the portion thereof to be used exclusively for parking is improved in accordance with requirements of the city or county road department, whichever is appropriate.
(Ord. passed 5-11-78)

§ 154.158 PROCEDURE.

In that the development of any future mobile home park requires an approved development plan, the prospective developer shall prepare a plan which shall contain as a minimum the requirements set forth in §§ 154.230 through 154.234, in addition to any other requirements the Planning Commission deems necessary to properly review and evaluate the proposed development. These additional requirements shall be considered a part of this zoning code, and failure to comply shall subject the violator to the penalties set forth herein. On obtaining approval of the development plan, the developer shall then request a conditional use permit from the Board of Adjustment which shall be considered a part of these regulations, and failure to comply shall subject the violator to the penalties set forth herein. (Ord. passed 5-11-78)

AIRPORT ZONING

§ 154.160 INTENT.

Airport zoning may be divided into two (2) general categories: zoning to prevent obstructions into navigable air space, and zoning to control the use and development of land in the vicinity of the airport. The intent of airport zoning is to assure the safety of persons in aircraft, persons on the ground, and property, and to assure that adequate space is available for future airport zoning regulations. The following information is a summary of some regulations which presently exist and are administered by the Kentucky Airport Zoning Commission and the Federal Aviation Administration.

(Ord. passed 5-11-78)

Cross-reference:

Joint Airport Board, see § 34.160-34.166

§ 154.161 CONSTRUCTION OR ALTERATION REQUIRING NOTICE.

Except as provided in § 154.162, each person who proposes any of the following construction or alteration shall notify the Kentucky Airport Zoning Commission, in addition to the Morehead-Rowan County Planning Commission, in the form and manner described in § 154.163.

(A) Any construction or alteration of more than two hundred (200) feet in height above the ground level at its site (regardless of location).

(B) Any construction or alteration of a greater height than an imaginary surface extending outward and upward at one of:

(1) One hundred (100) to one (1) for a horizontal distance of twenty thousand (20,000) feet from the nearest point of the nearest runway of each airport as specified in division (E) below, with at least one runway of more than three thousand two hundred (3,200) feet in actual length, excluding heliports;

(2) Twenty-five (25) to one (1) for horizontal distance of five thousand (5,000) feet from the nearest point of the nearest landing and takeoff area of any heliport.

(C) Any highway, railroad, or other traverse way for mobile objects of a height which, if adjusted upward seventeen (17) feet for an interstate highway that is part of the national system of military and interstate highways where overcrossings are designed for a minimum of seventeen (17) feet vertical distance, fifteen (15) feet for other highways, twenty-five (25) feet for a railroad, and, for any other traverse way, an amount equal to the height of the highest unshielded mobile objects that would normally traverse it, would exceed the standard of division (B) (1) and (2) above.

(D) Any construction or alteration on an airport listed in the

"Kentucky Airport Directory" published by the Kentucky Department of Aeronautics, or is a planned or proposed airport, or airport under construction, that is the subject of a notice or proposal on file with the Department of Aeronautics, Frankfort, Kentucky.

(E) The preceding divisions apply to any of the following airports:

(1) An airport that is available for public use and is listed in the "Kentucky Airport Directory";

(2) A planned or proposed airport under construction, that is the subject of a notice or proposal on file with the Department of Aeronautics, Frankfort, Kentucky, provided, except for military airports, it is clearly indicated that the airport will be available for public use;

(3) An airport that is operated by an armed force of the United States. An official airport zoning map is filed in the Rowan County court clerk's office and the Kentucky Department of Aeronautics. Persons constructing or altering property within the planning area should be aware of both the airport height regulations and the general zoning provisions established in this zoning code.

(Ord. passed 5-11-78)

§ 154.162 CONSTRUCTION OR ALTERATION NOT REQUIRING NOTICE.

No person is required to notify the Kentucky airport zoning commission for any of the following construction or alteration:

(A) Any object that would be shielded by existing structures of a permanent and substantial character, or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of the city, town, or rural settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(B) Any antenna structure of twenty (20) feet or less in height, except one that would increase the height of another antenna structure.

(C) Any electronic facility, the broadcast signal of which is used primarily for navigational guidance by aircraft; any airport visual approach or landing aid; any airport ceiling or visibility device; or any other meteorological facility or instrument approved by the Federal Aviation Administration, the location and height of which would be fixed by its functional purpose.

(Ord. passed 5-11-78)

§ 154.163 FORMS AND TIME OF NOTICE.

(A) Any person who is required to notify the Kentucky Airport Zoning Commission under § 154.161 shall send two (2) executed copies of State Airport Zoning Form 1, "Notice of Construction or Alteration", to

the Kentucky Airport Zoning Commission, Department of Aeronautics, Old Capitol Annex, Frankfort, Kentucky. These forms may be obtained by contacting the agency or by contacting the office of the city building inspector. The notice required must be submitted at least thirty (30) days before the earlier of the following dates: the date the proposed construction or alteration is to begin, or the date an application for a construction permit is to be filed. However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the Kentucky Airport Zoning Commission at the same time the application for construction is filed with the Federal Communications Commission, or at any time before that filing.

(B) In case of an emergency involving essential public services, public health, or public safety that requires immediate construction or alteration, the thirty (30) day requirement for notice does not apply, and may be sent by telephone, telegraph, or other expeditious means, with an executed Kentucky Airport Zoning Form 1, submitted within five (5) days thereafter.
(Ord. 5-11-78)

§ 154.164 REGULATIONS ON LAND USE.

Any other regulations on property within the zone that may be subject to regulations of the Kentucky Airport Zoning Commission or the Federal Aviation Administration are also applicable as provided in other articles and sections by this zoning code.
(Ord. passed 5-11-78)

FENCE AND LANDSCAPING REGULATIONS

§ 154.170 GENERAL REQUIREMENTS ON FENCES.

Fences may be erected, altered, or reconstructed in accordance with the following regulations, and in accordance with the other provisions of this zoning code, except that the fence regulations in no way apply to land used solely for agricultural purposes.

(A) No barbed wire is permitted as fencing within any residential zone, except in the following cases:

(1) A farm located within a residential zone; and

(2) Chain link fencing around the facilities of the Morehead Utility Plant Board not less than six (6) feet in height may be topped with three (3) rows of barbed wire.

(B) All fencing of residential property adjacent to agricultural uses becomes the joint responsibility of the residential property owner and the farmer for erection, repair, maintenance, and replacement, when necessary.

(C) Fences may be erected, altered, or reconstructed to a height not to exceed six (6) feet above ground level, and shall be located a minimum twenty-five (25) feet from the street line in a residential zone,

excluding a yard of any use in a business or industrial zone. This is not applicable to fences constructed to accommodate swimming pools and tennis courts. (D) Fences may be erected, altered, or reconstructed on a lot line to a height not to exceed six (6) feet, when located in the side or rear yards of any dwelling in a residential zone.

(E) The foregoing restrictions shall not be applied so as to prevent the erection of an open wire fence anywhere within a public park, public playground, or school premises, except when adjacent to agricultural land, then the fencing shall not be less than six (6) feet in height, nor less than four (4) feet in height when barbed wire is used on top.

(F) All fences must be erected within the property lines, and not fences shall be erected so as to encroach upon a public right-of-way.

(G) All fences shall be maintained in a safe, sound, and upright condition.

(H) If the building inspector, upon inspection, determines that any fence or portion thereof is not being maintained in a safe, sound, or upright condition, he shall notify the owner of the fence in writing of his findings, state briefly the reasons for the findings, and order the fence or portion thereof repaired or moved within thirty (30) days of the date of the written notice.

(I) These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

(J) Before approval is given for developing any properties with a common boundary adjacent to agricultural land, the developer shall be required to erect a woven wire fence not to exceed eight (8) feet, nor less than four (4) feet, in height with barbed wire topping sufficient to effectively and safely confine all farm animals. Future maintenance, repairs, or reconstruction will be the joint and equal responsibility of the owners of record.

(K) In the event a suitable farm fence, under the provisions of these §§ 154.170 and 154.171, is already in existence, between agricultural and residential property, all maintenance, repair, or reconstruction will be the joint and equal responsibility of the owners of record, with primary responsibility resting on the agricultural operator to exercise due diligence in confining farm animals. If the farmer is in agreement that the existing fence is suitable, the developer shall be excused from the initial construction of a fence.

(Ord. passed 5-11-78; Am. Ord. 04:2008, passed 2-11-08)

§ 154.171 LANDSCAPE AND SCREEN REGULATIONS.

(A) Definitions.

(1) "CALIPER." A measurement of the tree diameter at a specified height above grade level.

(2) "DECIDUOUS." The characteristic of plants losing their leaves during the winter months.

(3) "EVERGREEN." The characteristic of plants retaining their leaves during-winter months.

(4) "EXPANSION." Construction or alteration of any building or structure on a lot which already contains existing building(s) or structure(s) and is used for commercial or has an intended commercial use.

(5) "GROUND COVER PLANTS." Plants that typically are low growing (less than one and one-half (1 1/2) feet in height) and with a spreading.

(6) "IMPERVIOUS SURFACE." Materials such as concrete, asphalt, brick, metal, or any other material constructed or erected on landscaped or natural buffer areas and impede the percolation of water into the ground.

(7) "INTERIOR BAY." All parking bays that do not qualify as a perimeter bay.

(8) "LANDSCAPE AREA/LANDSCAPED YARD." An area to be planted with trees, shrubs, grass, or other ground cover type plant material. Impervious surfaces are absent from these areas.

(9) "LANDSCAPED ISLAND." A landscaped area defined by a curb and surrounded by paving on all sides.

(10) "LANDSCAPED PENINSULA." A landscaped area defined by a curb and surrounded by paving on three sides.

(11) "LANDSCAPED MEDIAN." A landscaped area bordering two (2) adjoining parking bays.

(12) "LARGE SHRUB." A multi-stemmed wood plant that reaches a mature height of ten (10) to twenty-five (25) feet.

(13) "LARGE TREE." A single-stemmed (trunk) woody plant that reaches a mature height of over fifty (50) feet.

(14) "LOW SHRUB." A multi-stemmed woody plant that reaches a mature height of one and one-half (1 1/2) to four (4) feet.

(15) "MEDIUM TREE." A single-stemmed (trunk) woody plant that reaches a mature height of twenty-six (26) to fifty (50) feet.

(16) "NATURAL BUFFER." An area of land set aside for preservation in its natural vegetative state. No removal of plants is permitted with the exception of poisonous and those listed as undesirable in division (I)(3) herein. In addition, no cutting/filling activities, storage of materials, or placement of impervious surfaces is permitted.

(17) "NEW DEVELOPMENT." Construction of a new building or structure on its own lot.

(18) "PARKING SPACE/PARKING BAY." Areas designed for parking all types of vehicles except tractor trailers.

(19) "PERIMETER BAY." Parking bays that are adjacent to the perimeter of a development.

(20) "SCREEN." A landscape feature designed to provide year-round visual obstruction. Evergreen plant material is preferable although deciduous plant material, composite, or masonry material may be allowed in some situations.

(21) "SMALL SHRUB." A multi-stemmed woody plant that reaches a mature height of four (4) to six (6) feet.

(22) "STREET TREE." A single-stemmed woody plant located in a street yard or landscaped yard.

(23) "STREET YARD." A designated landscaped area where private property abuts the public street right-of-way for the planting of grass, trees, shrubs, and ground covers.

(B) General provisions.

(1) These regulations shall apply to the following;

(a) All new developments subject to the jurisdiction of the City of Morehead, Kentucky.

(b) Existing developments subject to the jurisdiction of the City of Morehead, Kentucky that increase their gross floor area of building or parking greater than twenty-five (25) feet.

(c) Existing developments subject to the jurisdiction of the City of Morehead, Kentucky that increase their gross floor area of building or parking between ten (10) and twenty-five (25) percent. Said developers may, however, choose to apply said regulations to the entire area.

(2) Single-family residential structures are exempt from said regulations.

(C) Landscape plan required. Proposed developments subject to these regulations shall submit a landscape site plan to the City Planner with the preliminary development plans. This plan may be incorporated into a parking/paving plan or may be included in the overall development plan for a property. The following elements shall be shown on the landscape plan:

(1) Zoning of the site and adjoining properties;

(2) Existing and proposed contours at two (2) feet intervals;

(3) Boundary lines and lot dimensions;

(4) Date, graphic scale, north arrow, title and name(s) of owner(s), and the address and phone number of the person or firm responsible for preparing the landscape plan;

(5) Location of all proposed structures and storage areas;

- (6) Drainage features and one-hundred (100) year flood plain, if applicable;
- (7) Parking lot layout including parking stalls, bays, and driving lanes, including the total number of parking spaces provided;
- (8) Existing and proposed utility lines and easements;
- (9) All paved surfaces, sidewalks, and curbs;
- (10) Existing trees, shrubs, and/or natural areas to be retained;
- (11) The location of all required landscaped areas (street yard, landscaped peninsulas, landscaped islands and screening buffers); and
- (12) Drawings shall be at a scale of one (1) inch to forty (40) feet or less.

(D) Plant installation plan. Proposed developments subject to these regulations shall submit a plant installation plan to the City Planner with preliminary development plans. The following information shall be included in said plan:

- (1) Locations, installation size, and scientific and common names of landscape material to be installed;
- (2) The spacing between trees and shrubs used for screening;
- (3) Details of plant installation (hole depth, hole width, staking, mulching, etc.);
- (4) For turf grass areas (seed or sod) show soil preparation fertilizer (analysis and rate), species to be used, and seeding rate or sod specifications.

(E) Hardships. These regulations are not intended to create undue hardship on affected developments and/or expansions. For new developments, required landscaping shall not exceed fifteen (15) percent of the total lot area. For expansions, the loss of off-street parking spaces shall not exceed ten (10) percent. The Morehead-Lakeview Heights-Rowan County Joint Planning Commission may modify landscape and screening requirements if undue hardship can be demonstrated by the developer. Undue hardships shall be decided on a case-by case basis. The Commission shall take into consideration the size of the lot and the topography of said lot in determining whether an undue hardship exists. Buffer screening shall always be provided. Space limitations may permit that a minimum of a six (6) feet tall composite or masonry wall be substituted for plant material. Said substitution may only be approved by the Commission.

(F) Street yard requirements.

- (1) Intent. The intent is to add quality and definition to the street by planting trees, shrubs, turf, and/or ground covers within a landscaped area along the edge of the right-of-way.
- (2) Dimensions.

(a) A street yard shall be provided where the proposed development site adjoins the public street right-of-way. Alleys and approved access points are exempt.

(b) The street yard shall have a minimum depth of five (5) feet from the public right-of-way, excluding any sidewalk area.

(3) Plantings.

(a) The street yard may consist of mulch, turf grass, and/or other natural living ground cover material, trees and shrubs. No impervious surfaces are permitted in the street yard except at approved access points.

(b) Trees shall be planted in the street yard at a minimum ratio of one (1) tree per thirty-five (35) linear feet of right-of-way frontage.

(c) The minimum spacing between trees is fifteen (15) feet and the maximum spacing is fifty (50) feet, measured trunk-to-trunk.

(d) The trees to be planted in street yards shall have a minimum maturity height of twenty-five (25) feet and a minimum canopy spread of fifteen (15) feet. See division (I) herein.

(e) Low shrubs may be used to complement trees, turf, and ground covers in the street yard.

(4) Existing woodlands. Existing woodlands along the street right-of-way can be substituted for street yard requirements subject to the following conditions:

(a) Existing woodlands shall have a minimum depth of twenty-five (25) feet as measured from the public right-of-way.

(b) The number of woodland trees (not including prohibited species) having a minimum caliper of six (6) inches shall equal or exceed the minimum street tree planting ratio of one (1) tree per thirty-five (35) linear feet.

(c) No impervious surfaces are permitted within the woodlands area except at approved access points.

(d) No cutting/filling activities or storage of materials/equipment are permitted in woodland areas.

(5) Exceptions and special circumstances.

(a) Areas zoned R-1 and all single family dwellings in the City of Morehead are exempt from street yard requirements.

(b) Existing street trees planted within the right-of-way (excluding street median or opposite side of the street) and approved by the Morehead-Lakeview Heights-Rowan County Joint Planning Commission can be used to meet street yard requirements.

(c) When overhead power lines encroach into the street yard, a small tree may be planted within ten (10) lateral feet of overhead lines. A small or medium tree is to be used within ten (10) to twenty (20) lateral feet of overhead lines. See division (I) herein.

(d) Storm water facilities may be located within the street yard subject to the following restrictions:

1. No riprap, crushed stone, concrete, asphalt or other impervious materials are exposed; and

2. Trees and other plant materials shall be planted along the storm water facility.

(e) With written approval of the right-of-way owner, portions of the public right-of-way may be used to meet street yard requirements.

(6) No street tree shall be located within twenty-five (25) feet of stop signs, yield signs, regulating or warning signs, ten (10) feet of fire hydrants, and fifteen (15) feet of driveway entrances. Only turf or groundcover plants may be planted within these designated distances.

(G) Parking lot requirements.

(1) Intent. The intent is to break up the expanse of pavement, to provide shade, to enhance appearance, and to reduce the glare from parked vehicles and loading docks.

(2) Design criteria.

(a) No parking space can be more than sixty (60) feet from a tree.

(b) A landscaped island or peninsula shall border ends of interior parking bays that contain a minimum of ten (10) contiguous parking spaces.

(c) A landscaped peninsula shall border ends of perimeter bays.

(d) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way.

(e) Landscaped islands and peninsulas shall have a minimum width of eight (8) feet and a minimum landscaped area of ninety-six (96) square feet.

(f) All landscaped islands or peninsulas shall be bordered by a curb or wheel stop.

(3) Planting criteria.

(a) Landscaped islands and peninsulas shall be planted with at least one (1) tree.

(b) Trees used in islands and peninsulas shall have a minimum expected maturity of twenty-five (25) feet in height and fifteen (15) feet canopy spread. See division (I) herein. Smaller trees may be substituted if:

1. An overhead obstacle such as a canopy or utility line limits the tree height; or
2. The tree is located within twenty (20) feet of a building.

(c) The material for screening loading docks and delivery stalls shall consist of the following:

1. One (1) row of evergreen shrubs spaced at a minimum of five (5) feet on center; or
2. One (1) row of evergreen trees spaced at a maximum of ten (10) feet on center. See division (I) herein.

(H) Screening/buffering requirements.

(1) Intent. The intent is to provide transition between incompatible land uses and to protect the integrity of less intensive uses from more intensive uses; screening and buffering will be required. The purpose of the screen is to provide a year-round visual obstruction. The buffer provides transition between incompatible uses by providing a landscaped yard of a specified depth along the shared property line.

(2) Procedure. Screening/buffering requirements for the City of Morehead, Kentucky are influenced by the Zoning District of the proposed development and the adjoining properties. For the purpose of determining the screening/buffering requirements, Zoning Districts are grouped into categories:

(a) The zoning categories are:

1. Manufacturing/warehousing = I-1
2. Commercial = B-1, B-2, B-3
3. Public = P
4. Residential (High Density) = R-3
5. Residential (Low Density) = R-1, R-2

(b) Screening/buffering levels.

1. Maximum level. This level provides a thirty (30) feet-deep (as measured toward the property interior) landscape yard along the shared property line. The landscape yard shall consist of evergreen trees spaced a maximum of ten (10) feet on center, or two (2) staggered rows (spaced a maximum of seven (7) feet apart) of evergreen shrubs spaced a maximum of eight (8) feet on center and two (2) rows of shade trees spaced a maximum of thirty-five (35) feet on center.

2. Medium level. This level provides a twenty (20) feet-deep (as measured toward the interior of the property) landscape yard along the shared property line. The landscape yard shall consist of evergreen trees spaced a maximum of ten (10) feet on center, or two (2) staggered rows (spaced a maximum of seven (7) feet apart) of evergreen shrubs spaced a maximum of eight (8) feet on center and one (1) row of shade trees spaced a maximum of thirty-five (35) feet on center.

3. Minimum level. This level provides a ten (10) feet-deep (as measured toward the interior of the property) landscape yard along the shared property line. The landscape yard shall consist of evergreen trees spaced a maximum of ten (10) feet on center or two staggered rows (spaced a maximum eight (8) feet on center).

4. All plantings shall be selected from and meet the installation and planting size requirement specified in division (I) herein.

5. In addition to trees and shrubs, the landscape yard shall include either turf-grass, ground cover plants mulch or a combination of these materials.

(c) Determination of screening/buffering levels.

1. Manufacturing/Warehousing. This category requires the maximum level of screening/buffering when adjoining any other category.

2. Commercial. This category requires the maximum level of screening/buffering when adjoining Manufacturing/Warehousing, High-Density Residential and Low-Density Residential. There is no requirement when adjoining public or other commercial categories.

3. Public. This category requires the maximum level of screening/buffering when adjoining Manufacturing/Warehousing, the Medium Level when adjoining High and Low Density Residential and the minimum level when adjoining the commercial category.

4. High Density Residential. This category requires the maximum level of screening/buffering when adjoining Manufacturing/Warehousing and Low Density Residential, and the medium level when adjoining Commercial and Public categories.

(d) Screening of dumpsters. Dumpsters in any zoning districts shall be screened as described below:

1. Screening shall be a minimum height of six (6) feet.

2. All four (4) sides of the dumpster shall be screened.

3. The screen shall incorporate access to the dumpster by using a composite fence or other opaque material to serve as a gate.

4. Screening materials may be any combination of evergreen plantings, composite, or masonry materials. In no case shall chain link or wood be used.

(e) Storm water facilities may be located in the landscape yard subject to the following restrictions:

1. No rip-rap, crushed stone, concrete, asphalt, or other impervious materials are exposed; and

2. Trees and other plant materials shall be planted along the storm water facility.

(I) Plant selection and installation.

(1) General requirements.

(a) All landscape material (trees, shrubs, ground covers) shall be selected from those listed herein or on the approved list of the City of Morehead by size, foliage, and use available from the City Planner.

(b) Installation of plant material shall be accomplished in a professional manner and according to standards adopted by the American Society of Landscape Architects.

(c) Selection shall be based on intended use in the landscape yard, parking lot or screening/buffering location.

(d) All medium or large trees shall be installed at a minimum caliper of one and three-quarter (1 3/4) inches as measured two (2) feet above grade level. Small trees shall have a caliper of one and one-quarter (1 1/4) inches.

(e) All trees shall be B & B stock.

(f) All trees used for screening purposes shall be a minimum of five (5) to six (6) feet tall at the time of installation. Evergreen tree species selected for screening should have an expected mature spread of at least eight (8) feet.

(g) All shrubs, except those listed as ground cover, shall be a minimum of three (3) gallon size when installed. Ground covers shall be in a minimum one (1) gallon sized container. All shrubs shall be full foliated and well-developed.

(h) Shrubs used for screening should have an expected mature height of at least eight (8) feet and an expected mature spread of at least five (5) feet.

(2) The list of approved trees, ground cover, and shrub species for the City of Morehead by size, foliage, and use may be obtained from the City Planner.

(3) Undesirable species. Undesirable species shall not be planted in the City of Morehead and must be removed from wooded or naturalized areas to satisfy landscape yard or screening/buffering

requirements. A list of undesirable species for the City of Morehead may be obtained from the City Planner. The reason for classifying species as undesirable include one or more of the following:

- (a) Disease and/or insect problems;
- (b) Messy or objectionable flowers, fruit or bark;
- (c) Drooping branches of weak-wooded characteristics leading to the loss of branches due to wind or age;
- (d) Unpredictable or irregular habits;
- (e) Invasive, shallow, or destructive root system;
- (f) Dangerously thorny or poisonous parts that present safety risks;
- (g) A tendency to self-propagate and/or invasively spread to other landscaped or natural areas; or
- (h) Lack of winter hardness for the area.

(J) Utility easement policy.

(1) Any tree or shrub used to meet landscape requirements shall not be located within proposed or existing utility easements unless it meets one of the following special exceptions:

(a) Written permission has been obtained from the holder of the utility easement.

(b) Where overhead utility lines cross an area required by this chapter to be planted with shade trees, smaller trees may be substituted. See divisions (F) (5) (c) and (I) (2) herein.

(2) If the special exceptions above do not apply, the following options shall be considered in order of priority:

(a) Priority Number 1 - Plant the tree as close to the easement as possible.

(b) Priority Number 2 - in highly visible areas (street yards, front parking lots) plant the tree in the general area where it can be seen from the street or parking lot.

(3) Utility easements may be used to meet landscape yard requirements. The applicant is responsible for identifying existing and proposed utility easements within the property as a part of the landscape site plan.

(K) Maintenance.

(1) The property owner shall be responsible for the maintenance of all landscaping. All landscaped areas must present a healthy, neat, and orderly appearance and shall be kept free from refuse and weedy growth. Watering, fertilizing, mulching, pruning, removal of dead or

diseased limbs, leaf removal, and insect control are required practices and should be carried out as necessary. Any dead or diseased plant material shall be replaced by the property owner during the next planting season (spring or fall only). Replacement plants shall meet the requirements of this chapter.

(2) Pruning.

(a) Topping of trees within the street yard and parking lot areas shall be prohibited. Topping is defined as the severe cutting back of limbs to stubs larger than two (2) inches in diameter within the crown of the tree. Trees damaged by storms or other physical causes or trees under utility lines may be exempt from this regulation with written approval of the City Planner.

(b) Visibility enhancement may occur where a tree blocks outdoor signs or building facades. With the written approval of the City Planner, up to twenty-five (25) percent of the crown may be removed to improve visibility.

(c) The removal of overhanging limbs may be necessary for safety and to provide clearance for pedestrian and vehicular traffic. For sidewalks, a clearance of seven (7) feet shall be provided. For streets with automobile traffic only, a clearance of twelve (12) feet shall be provided. Truck routes should have a fourteen (14) foot clearance.

(3) Plant removal.

(a) After installation, no live tree or shrub shall be removed without the written permission of the Morehead-Lakeview Heights-Rowan County Joint Planning Commission.

(b) Instances where permission to remove a live tree may be issued include, but are not limited to, the following;

1. There is a threat to public safety;
2. The plant poses a threat to other plants in the neighborhood; or
3. The plant is to be replaced with a more desirable plant.

(c) Any plant removed shall be replaced with a suitable plant as outlined in division (I) herein.

(L) Occupancy/bonding.

(1) If the landscaping has not been installed and inspected for proper installation prior to receiving a Certificate of Occupancy, a Certificate of Occupancy may be granted provided the following conditions are met:

(a) The property owner posts a performance bond or irrevocable letter of credit with the City Clerk.

(b) The amount of the bond or letter of credit shall be based on material and installation costs of uninstalled landscape material including a twenty (20) percent contingency cost as shown on the landscape plan.

(c) The cost of the landscaping shall be certified by the City Planner.

(2) After receiving the Certificate of Occupancy, the remaining landscape material shall be installed within six (6) months. The bond or letter of credit shall be called if the required landscaping has not been installed by the end of the six (6) month period and the funds applied to complete the landscape work. A two (2) month extension time may be granted by the City Planner upon request.

(M) Appeals. Any person aggrieved by the administration, interpretation, or enforcement of this ordinance may appeal to the Board of City Council of the City of Morehead, Kentucky within sixty (60) days of the decision of the Morehead-Lakeview Heights-Rowan County Joint Planning Commission. Decisions of the Board of City Council may be appealed to the Rowan Court of competent jurisdiction.

(N) Penalty. Any person, firm, partnership, corporation, etc. in violation of this section shall be subject to the penalties set forth in § 154.999 herein.

(Ord. passed 5-11-78; Am. Ord. 05:99, passed 3-8-99; Am. Ord. 38:2008, passed 11-10-08)

Cross-reference:

Tree planting regulations, see §§ 34.100 - 34.113

OFF-STREET PARKING, LOADING AND UNLOADING REGULATIONS

§ 154.180 GENERAL PROVISIONS.

(A) Off-street parking space shall be provided as further specified in this zoning code, and shall be furnished with necessary passageways and driveways. All space shall be deemed to be required space on the lot on which the building is situated, or within two hundred (200) feet of the lot, and shall not be encroached upon or reduced in any manner. Any parking areas, passageways, and driveways shall be surfaced and maintained with a minimum of concrete or asphalt with properly marked parking spaces and drive aisles, and shall be adequately drained, all subject to the approval of the City Building Inspector.

(B) None of the off-street parking facilities required herein shall be required for any existing building or use, unless the building or use shall be enlarged or use of occupancy changed, in which case the provisions of this zoning code shall apply only to the enlarged portion of the building or the whole building if the use of occupancy is changed.

(C) Parking areas may be located in any yard space for commercial uses, and in any yard other than the front yard for other uses, but shall not be closer than five (5) feet to any other street line, or five (5) feet from any property line.

(D) The collective provision of off-street parking areas of two (2) or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned or leased by one or more of collective users. Shared parking may be permitted as a conditional use in unusual circumstances.

(E) Not more than two (2) driveways, of not less than twenty (20) feet or more than thirty (30) feet in width, used as a means of ingress and egress for nonresidential off-street parking areas, shall be permitted for each two hundred (200) feet frontage upon a public street, nor shall any driveway be located closer than fifty (50) feet to the intersection of two (2) public streets.

(F) When a parking area for eight (8) or more vehicles adjoins a residential zone, a buffer strip at least five (5) feet wide, shall be provided between the parking area and the adjoining property. The buffer strip shall be attractively landscaped or provided with an approved vertical screening not less than (5) feet in height. No fences or walls along any street side shall be permitted, only vertical screening to interior lot lines.

(G) All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the facility is in operation. Adequate shielding shall be provided by the commercial uses to protect adjacent residential zones from the direct glare of the illumination, and from that of automobile headlights. Base of poles shall have a concrete protective base or steel post protection. No wooden poles shall be permitted.

(Ord. passed 5-11-78; Am. Ord. 02:2008, passed 1-14-08)

§ 154.181 REQUIRED OFF-STREET PARKING SPACE.

(A) One-family and two-family detached dwellings, two (2) parking spaces per dwelling unit.

(B) Apartments and townhouses, two (2) parking spaces per dwelling unit for complexes up to fifteen (15) units, and one and one half (1-1/2) spaces for all complexes above fifteen (15) units.

(C) Hotels, motels, tourist homes, rooming or boardinghouses, one (1) parking space for each of the first twenty (20) guest units, plus one parking space for every 2 guest units over the first twenty (20) units.

(D) Barber and beauty shops, one parking space per beauty chair or barber chair, plus one (1) additional parking space for each employee per shift.

(E) Banks, financial business offices, and professional offices, one (1) parking space for every one hundred fifty (150) square feet of building area or major fraction thereof.

(F) Retail and service stores, except where other wise specifically covered herein, one parking space for every five hundred (500) square feet of building area or major fraction thereof.

(G) Stores for the retail sale of furniture, appliances, or hardware, one parking space for every five hundred (500) square feet of building area or major fraction thereof.

(H) Supermarkets, self-service food stores, one parking space for every one hundred (100) square feet of building area or major fraction thereof.

(I) Laundromats, one (1) parking space for every four (4) washing machines.

(J) Automobile service stations, one (1) parking space for each employee, with a minimum of two (2) parking spaces for employees.

(K) Motor vehicle sales and service, one parking space for every four hundred (400) square feet of building area or fraction thereof.

(L) Used car sales, five (5) parking spaces, plus one (1) parking space for each employee per shift.

(M) Restaurants, cafeterias (indoor service only), one (1) parking space for every four (4) seats for customers, plus one (1) space for every two (2) employees per shift.

(N) Bowling alleys, five (5) parking spaces for each bowling lane.

(O) Auditoriums, churches, theaters, stadiums, assembly halls, and similar places of public assembly having fixed seating facilities, one parking space for every four (4) seats in the main assembly unit.

(P) Auditoriums, exhibition halls, assembly halls, community centers, and similar places of public assembly not having fixed seating facilities, one (1) parking space for every four (4) persons who may legally be admitted therein at one time under the state fire prevention laws.

(Q) Hospitals, nursing homes, and similar institutional uses for care of the ill or aged, one (1) parking space for every four (4) beds, plus one (1) additional parking space for every two (2) employees, and members of the staff in the largest working shift.

(R) Mortuaries and funeral homes, one (1) parking space for every one hundred fifty (150) square feet of building space.

(S) Public transportation terminal facilities, one (1) parking space for every one hundred fifty (150) square feet of building space.

(T) Parks and other outdoor recreation sites, five (5) parking spaces for each gross acre of land up to fifty (50) acres, and one (1) parking space per gross acre of land above fifty (50) acres.

(U) Industrial manufacturing establishments, one (1) parking space for every two (2) employees in the largest working shift.

(V) Planned commercial shopping center, one (1) parking space for each three hundred (300) square feet of gross building floor area.
(Ord. passed 5-11-78)

§ 154.182 OFF-STREET LOADING AND UNLOADING PROVISIONS.

(A) General provisions. For every building, structure, or part thereof having over five thousand (5,000) square feet of gross building area erected and occupied for commerce, hotel, hospital, laundry, dry cleaning, places of public assembly, industry, and other similar uses involved in the receipt and distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate parking space for standing, loading, and unloading services in order to avoid undue interference with the public use of streets or alleys. Every building structure or addition thereto having a use which complies also with the above definition shall be provided with at least one (1) truck standing, loading and unloading space on the premises not less than twelve (12) feet in height, thirty-five (35) feet in length, and fourteen (14) feet in width. One (1) additional truck space of these dimensions shall be provided for every additional twenty thousand (20,000) square feet, or fraction thereof, of gross area in the building.

(B) Access. Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley, or from any right-of-way that will not interfere with public convenience, and that will permit the orderly and safe movement of truck vehicles.

(C) Loading space not counted as parking. Loading space as required under this section shall be provided as area in addition to off-street parking space and shall not be considered as supplying off-street parking space.

(D) Surfacing required. Off-street loading and unloading areas shall be surfaced with durable, all-weather pavement, or built and

maintained with white rock or slag which shall be adequately drained, all subject to the approval of the Building Inspector.

(E) Screening required. When an off-street loading and unloading area is located next to a residential zone, the loading and unloading area shall be suitably screened in accordance with § 154.171.
(Ord. passed 5-11-78)

MOREHEAD BOARD OF ZONING ADJUSTMENT

§ 154.210 ESTABLISHMENT.

The Board of Zoning Adjustment as constituted at the time of the adoption of this zoning code shall continue in power. The Board shall consist of five (5) members all of whom must be citizen members, and not more than one (1) of whom may be citizen members of the planning commission. The Mayor shall appoint said members subject to the approval of the Board of City Council. The term of office shall be four (4) years.
(Ord. passed 5-11-78; Am. Ord. 26:2009, passed 10-12-09)

§ 154.211 PROCEEDINGS.

(A) The Board of Zoning Adjustment shall conduct meetings at the call of the chairman who shall give written or oral notice to all members of the board at least seven (7) days prior to the meeting. The notice shall contain the date, time, and place of the meeting, and the subject or subjects which will be discussed. A simple majority of the total membership of the Board of Zoning Adjustment shall constitute a quorum.

(B) The Board of Zoning Adjustment shall adopt bylaws for the transaction of business, and shall keep minutes and records of all proceedings, including regulations, transactions, findings, determinations, the number of votes for and against each question, whether any member is absent or abstains from voting, indicating the facts, all of which shall, immediately after adoption, be filed in the office of the Building Inspector/Planner. A transcript of the minutes of any Board of Zoning Adjustment meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

(Ord. passed 5-11-78; Am. Ord. 26:2009, passed 10-12-09)

§ 154.212 POWERS.

The Board of Zoning Adjustment shall have the following powers:

(A) General powers.

(1) The Board of Zoning Adjustment shall annually elect a Chairman of the Board. The Chairman shall preside over the public hearings and meetings and shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.

(2) The Board of Zoning Adjustment may employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties herein.

(3) The Board of Zoning Adjustment shall have the right to receive, hold, and spend funds which it may legally receive from any and every source both in and out of the Commonwealth of Kentucky, including the United States government, for the purpose of carrying out its assigned duties herein.

(4) The Board of Zoning Adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.

(B) Conditional use permits.

(1) The Board of Zoning Adjustment shall the power to hear and decide applications for conditional use permits to allow the proper integration into the planning area of uses which are specifically named in this zoning code which may be suitable only in specific locations in the zone only if certain conditions are met.

(2) Application procedure.

(a) An application for a conditional use permit shall be filed with the city's Building Inspector/Planner. Along with the application, the applicant shall pay all costs for advertisements associated with his/her application.

(b) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, an administrative official, and an owner of every parcel of property adjoining the property to which the application applies. Written notice shall be by first-class mail with certification by the Building Inspector/Planner that the notice was mailed. It shall be the duty of the applicant to furnish to the Board the name and address of an owner of each parcel of property adjoining the property to which the application applies. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(c) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

1. If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

2. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

(3) The Board may approve, modify, or deny any application for a conditional use permit. If it approves the permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in this zoning code listing the conditional use under consideration. The Board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator, and may have judgment in persona for each cost.

(4) The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of building, housing, and other regulations.

(5) Where a conditional use permit has not been exercised within the time limit set by the Board, or within one (1) year if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(6) The Building Inspector/Planner shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually, and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed in the conditional use permit. If the landowner is not complying with all the conditions listed in the conditional use permit, the Building Inspector/Planner shall report the fact in writing to the Chairman of the Board of Zoning Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the Chairman of the Board of Zoning Adjustment. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the Board of Zoning Adjustment finds that the facts alleged in the report of the Building Inspector/Planner are true, and the landowner has taken no steps

to comply with them between the date of the report and the date of the hearing, the Board of Zoning Adjustment may authorize the Building Inspector/Planner to revoke the conditional use permit, and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(7) Once the Board of Zoning Adjustment has granted a conditional use permit, and all of the conditions required are of such type that they can be completely and permanently satisfied, the Building Inspector/Planner, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file.

(C) Dimensional variances.

(1) The Board shall have the power to hear and decide applications for dimensional variances, where by reason of the exceptional narrowness, shallowness, or unusual shape of a site on the date of adoption or amendment of this zoning code, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of this zoning code would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decided to grant.

(2) An application for a variance shall be filed with the city's Building Inspector/Planner. Along with the application, the applicant shall pay all costs for advertisements associated with his/her application.

(3) Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

(a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

(b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

(c) The circumstances are the result of actions of the applicant taken subsequently to the adoption of the zoning regulation from which relief is sought.

(4) The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning

regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

(5) The Board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question, or alter density requirements in the zone in question.

(6) A variance applies to the property for which it is granted, and not to the individual who applied for it. A variance runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

(D) Administrative review. The Board of Zoning Adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant or refusal made by the Building Inspector/Planner in the enforcement of this zoning code. Such appeals shall be taken within thirty (30) days of the date of the action by the Building Inspector/Planner.

(1) Appeals to the Board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal or decision of any the Building Inspector/Planner decisions regarding zoning enforcement. Such appeals shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the Building Inspector/Planner by filing with said Building Inspector/Planner and the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said Building Inspector/Planner shall forthwith transmit to the Board of Zoning Adjustment all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board of Zoning Adjustment, any interested person may appear and enter his appearance, and all shall be given the opportunity to be heard.

(2) The Board of Zoning Adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Building Inspector/Planner at least one (1) week prior to the hearing, and shall decide it within sixty (60) days. The affected party may appear at the hearing in person or by attorney.

(Ord. passed 5-11-78; Am. Ord. 26:2009, passed 10-12-09)

§ 154.213 APPEALS.

Appeals to the Board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action or decision of the Building Inspector. An appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action appealed by filing with the officer and with the Board a notice of appeal specifying the grounds thereof, and giving notice of the appeal to any and all parties of record. The officer shall transmit to the Board all papers constituting the record upon which the action appealed was taken, and shall be treated as and be the respondent in further proceedings. At any

hearing by the Board, any interested person may appear and enter his appearance, and shall be given an opportunity to be heard. The Board shall fix a reasonable time for hearing the appeal, and give public notice in accordance with KRS Chapter 424 for the hearing as well as written notice to the appellant and the Building Inspector at least one (1) week prior to the hearing, and shall decide the appeal within sixty (60) days. The affected party may appear at the hearing in person or by attorney. (Ord. passed 5-11-78)

GENERAL REQUIREMENTS CONCERNING NONCONFORMING USES AND STRUCTURES

§ 154.220 INTENT.

(A) Within the zones and districts established by this zoning code or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of uses which were lawful before this zoning code was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this zoning code. These nonconformities shall be allowed to continue until they are removed or eliminated. It is further the intent of this zoning code that nonconformities shall not be enlarged or extended beyond the scope and area of the adoption or amendment of this zoning code, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone. Nonconforming uses are declared by this zoning code to be incompatible with permitted uses in the zones and districts involved.

(B) To avoid undue hardship, nothing in this zoning code shall be deemed to require a change in the plans, construction, or designated use of any building or premises on which an application for a building permit was filed with the Building Inspector prior to the date of adoption of this zoning code or amendment thereto. The issuance of a permit shall be valid only in the event that construction on the structure or premises, in accordance with the plans and specifications submitted with the application for a building permit, is begun within sixty (60) days after the date of issuance of the permit, and is diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position, and fastened in a permanent manner. Where grading or excavation, or demolition or removal of an existing building has begun preparatory to rebuilding or reusing the premises, the excavation or grading or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently. (Ord. passed 5-11-78)

§ 154.221 NONCONFORMING LOTS OF RECORD.

In any zone in which single-family, two-family, or multifamily dwellings are permitted, the dwelling as appropriately permitted in the zone and customary accessory buildings may be erected or enlarged on any single lot of record at the date of adoption or amendment of this

zoning code, or amendment notwithstanding, limitations imposed by other provisions of this zoning code. The lot must be in separate ownership, and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or frontage, or both, that are generally applicable in the zone or district, providing that dimensional requirements other than those applying to area or frontage, or both, of the lot shall conform to the regulations for the zone in which the lot is located. Dimensional variations must be obtained through action of the Board of Adjustment, as provided by § 154.212 (C).

(Ord. passed 5-11-78)

§ 154.222 NONCONFORMING USES OF LAND.

Where at the date of adoption or amendment of this zoning code lawful use of land exists which would not be permitted by the regulations imposed by this zoning code, the use may be continued so long as it remains.

(A) A nonconforming use shall not be enlarged or extended to occupy a greater area of land than was occupied at the date of adoption or amendment of this zoning code.

(B) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the date of adoption or amendment of this zoning code. However, the use may be moved to another position on the lot or parcel through appeal to the Board of Adjustment under § 154.213.

(C) No nonconforming use may be reestablished after it has been discontinued for six (6) months. Vacating the premises or building or nonoperative status shall be evidence of a discontinued use.

(D) Ground cover shall be planted and maintained any time there is grading, excavation, or filling, and it shall be provided within three (3) months after the completion of the excavation, grading, or filling, or within one (1) year of the date of the commencement of the excavation, grading, or filling, whichever is earlier.

(E) The construction of an approach or access roads shall require the permission of the city, county, or state, depending upon who has jurisdiction over the particular road.

(F) Buffer areas between industrial zones and residential zones shall be required.

(Ord. passed 5-11-78)

§ 154.223 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this zoning code that would not be built under the terms of this zoning code by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements

concerning the structure, structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structures or portion thereof, may be altered to decrease its nonconformity.

(B) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone or district in which it is located after it is moved. However, the structure may be moved to another part of the same lot by appeal to the Board of Adjustment, as provided under § 154.213.

(Ord. passed 5-11-78)

§ 154.224 REPAIRS AND MAINTENANCE.

On any nonconforming structure or portion of structure, and on any structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, plumbing, or other parts, provided that the cubic content of the nonconforming structure or portion shall not be increased. Nothing in this zoning code shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof.

(Ord. passed 5-11-78)

§ 154.225 CONDITIONAL USES.

Any existing principal permitted use at the date of the adoption or amendment of this zoning code, which would thereafter require a conditional use permit, shall be deemed a conforming use, but any enlargement or replacement of the use in buildings or on land shall require a conditional use permit as provided by § 154.212(B).

(Ord. passed 5-11-78)

DEVELOPMENT PLAN

§ 154.230 INTENT.

Sections 154.230 through 154.234 outline the content and procedure for submission, review, and approval of all development plans required in this zoning code, unless another procedure or different contents are specified elsewhere in this zoning code.

(Ord. passed 5-11-78)

§ 154.231 DEVELOPMENT PLAN.

A comprehensive development plan shall be required whenever a subdivision is established as defined by KRS § 100.111(23).

(Ord. passed 5-11-78)

§ 154.232 CONTENTS OF DEVELOPMENT PLAN.

(A) The Planning Commission may require a "preliminary development plan" and a "final plan", or, depending on the complexity of the situation, the Commission may waive the preliminary development plan requirement.

(B) Contents of preliminary development plan. A preliminary development plan shall be submitted at least twenty-one (21) days prior to the scheduled meeting and shall contain the following information:

(1) Vicinity sketch;

(2) Submittals must show zone, vicinity, location, arrangements and approximate dimensions of existing and proposed driveways, streets, street names and addresses, sidewalks, parking areas and arrangement of spaces, points of ingress and egress, vehicular and pedestrian rights-of-way, and any manmade conditions or structures;

(3) Screening, landscaping, buffering, recreational, and other open space areas;

(4) Approximate size, location, height, floor area, arrangement, and use of proposed and existing buildings and signs;

(5) Storm drainage areas indicating adjoining property;

(6) Proposed and existing easements;

(7) Morehead Utility Plant Board certifications (gas, water and sewer); and

(8) Submittals must meet architectural and engineering standards.

(C) Contents of final development plan. A final development plan shall be submitted at least twenty-one (21) days prior to the scheduled meeting and shall contain the following information:

(1) Four (4) complete sets of plans drawn to scale with compass points; one (1) inch equals twenty (20) feet for small plats and one (1) inch equals forty (40) feet for large plats.

(2) Submittals must be to scale and meet architectural and engineering standards.

(3) Topography map or plot plan with contour intervals not greater than two (2) feet for the entire plot and indicating adjoining property. This may be waived at the discretion of the Planning Commission.

(4) Boundary features such as bearings and dimensions of all property lines.

(5) Complete drainage plan including parking lot and yard drainage, street access and curb cuts, curb gutter and sidewalk sections. There must be no drainage of surface water onto a public street. Any and all costs shall be borne by the developer.

(6) Size, location, height, floor area, and arrangement of proposed and existing buildings to the extent known or anticipated.

(7) Screening, landscaping, buffering, recreational and other open space areas showing the dimensions of and materials of the fences, plantings, buffer, and other open space areas.

(8) Submittals must show zone, vicinity, location, arrangement, and dimensions, street cross section drawings, sidewalks, parking areas including number of off-street parking spaces, walkways from parking to building entrances, points of ingress and egress within the development, off-street loading areas, and other vehicular and pedestrian rights-of-way.

(9) Utilities information such as proposals for gas, water, electricity, and telephone supply, parking lot lighting, dumpster location and access to dumpsters, storm water and sanitary sewer lines, and hydrants, and the like.

(10) Location and dimension of other existing or proposed easements.

(Ord. passed 5-11-78; Am. Ord. 26:96, passed 10-14-96; Am. Ord. 07:2012, passed 5-14-12)

§ 154.233 DEVELOPMENT PLANS REQUIRED FOR R-3 CENTRAL AND GENERAL BUSINESS.

All applications for zoning map amendments to the R-3, Central and General Business Zones shall require the submission and approval of a development plan by the Planning Commission.

(Ord. passed 5-11-78)

§ 154.234 DEVELOPMENT PLANS REQUIRED AT COMMISSION DISCRETION.

Development plans required at Commission discretion shall be submitted after requested by the Planning Commission. A public hearing on the zoning map amendment shall not be held until the required development plan has been submitted to the Commission. If the development plan is disapproved by the Commission, or if the Commission fails to approve or disapprove the plan, and the zoning map amendment is subsequently approved by the appropriate legislative body, the Commission

shall approve a development plan for the subject property, which shall be the final development plan within sixty (60) days of action by the legislative body, unless the applicant agrees to an extension of the time. (Ord. passed 5-11-78)

AMENDMENTS

§ 154.240 APPLICATION FOR AMENDMENT.

Amendments to this zoning code may originate with the Planning Commission, with the City Council, or any legislative body which has adopted this zoning code, the owner of the subject property, or by a

person having written authorization from the owner of the subject property. A proposal for amendment to the text of this zoning code may originate with any person or governmental body. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission for their consideration and action, in such form and accompanied by such information as required by this zoning code, and the bylaws of the Commission. At the time of filing an application, a nonreturnable filing fee for an amendment requested by any local legislative body or any governmental agency may be required.

(Ord. passed 5-11-78)

§ 154.241 COMMISSION PROCEDURE.

Upon filing of an application for an amendment to this zoning code, the Commission shall study and review the application.

(Ord. passed 5-11-78)

§ 154.242 NOTICE OF PUBLIC HEARING.

Before voting upon any proposed amendment, notice of the time, place, and reason for holding a public hearing shall be given one publication in the local newspaper of greatest general circulation in Rowan County, Kentucky, not earlier than twenty-one (21) days nor later than seven (7) days before the public hearing.

(Ord. passed 5-11-78)

§ 154.243 PUBLIC HEARING ON APPLICATION.

After notice of the public hearing as provided in § 154.242, the Commission shall hold a public hearing on the proposed amendment.

(Ord. passed 5-11-78)

§ 154.244 RECOMMENDATION OF COMMISSION FOR ZONING MAP AMENDMENTS.

Before recommending to the appropriate legislative body that an application for amendment to the zoning map be granted, the Commission shall find that the amendment is in agreement with the comprehensive plan adopted by the Commission, or, in the absence of a finding that the original zoning classification given to the property was inappropriate or improper, or there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the comprehensive plan adopted by the Commission, and which have substantially altered the basic character of the area. The findings of fact made by the Commission shall be recorded in the minutes and records of the Commission. After voting to recommend that an application for amendment to the zoning map be granted or denied, the Commission shall forward its findings of fact and recommendation in writing to the appropriate legislative body.

(Ord. passed 5-11-78)

§ 154.245 ACTION BY APPROPRIATE LEGISLATIVE BODY ON ZONING MAP AMENDMENTS.

The appropriate legislative body shall not act upon a proposed amendment to the zoning map until it has received the written findings of fact and recommendation thereon from the Planning Commission. Before an amendment to the zoning map is granted, the appropriate legislative body must find that the map amendment is in agreement with the comprehensive plan adopted by zoning classification given to the property was inappropriate or improper, or there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the comprehensive plan adopted by the Commission, and which have substantially altered the basic character of the area. It shall take a majority of the entire membership of the appropriate legislative body to override the recommendation of the Commission.
(Ord. passed 5-11-78)

§ 154.246 RECOMMENDATION OF COMMISSION FOR TEXT AMENDMENT.

After voting to recommend that application for amendment to the text of this zoning code be granted or denied, the Commission shall forward its recommendation in writing to the appropriate legislative body.
(Ord. passed 5-11-78)

§ 154.247 ACTION BY APPROPRIATE LEGISLATIVE BODY ON TEXT AMENDMENT.

The appropriate legislative body shall not act upon a proposed amendment to the text of this zoning code until it shall have received the written recommendation thereon from the Planning Commission. It shall take a majority of the entire membership of the appropriate legislative body to override the recommendation of the Commission.
(Ord. passed 5-11-78)

§ 154.248 PLANNING COMMISSION TO APPROVE CHANGES IN ZONING REGULATIONS.

Any legislative body in the planning unit must refer any change to the zoning regulation or official map regulation to the Commission for its review before adoption. The Commission shall review the proposal, and shall, within sixty (60) days from the date of its receipt, advise the legislative body whether it approves or disapproves of the change, and if it disapproves, state the reasons for disapproval. A majority of the entire membership of the referring legislative body shall be required to override the disapproval of the Planning Commission.
(Ord. passed 5-11-78)

ADMINISTRATION

§ 154.250 ADMINISTRATION AND ENFORCEMENT.

The Building Inspector shall administer and enforce this zoning

code except as otherwise provided herein. The Building Inspector shall promptly investigate complaints of violations, and report his or her findings and actions to complainants. He or she shall use his or her best efforts to prevent violations, and to detect and secure the correction of violations. If he or she shall find any of the provisions of this zoning code are being violated, he or she shall notify in writing the person responsible for the violations, indicating the nature of the violation, and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or construction of illegal additions, alterations, or work being done; and shall take or cause to be taken any other action authorized by this zoning code to insure compliance with and prevent violations of the provisions herein. The Building Inspector shall keep records of all official actions of his or her office relating to the administration and enforcement of the provisions of this zoning code, including, but not limited to, written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto, and the final disposition of all matters.

(Ord. passed 5-11-78)

§ 154.251 BUILDING PERMITS REQUIRED.

(A) Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure shall first make application with the Building Inspector and obtain the required permit.

(B) When a conditional use or dimensional variance is required, no building permit shall be issued without approval from the Board of Zoning Adjustment.

(C) All applications where building permits are required shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact size and location on the lot of any existing principal uses and buildings; the lines within which the proposed buildings or structures are to be erected or altered; the proposed height; the existing and intended use of each building; and other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this zoning code. One (1) copy of the plans shall be returned to the applicant by the Building Inspector, after he or she has marked the copy either as "Approved" or "Disapproved," and attested to the same by his or her signature on the copy. The original, similarly marked, shall be retained by the Building Inspector.

(D) Temporary structures shall require a permit with the exception of the following:

(1) Tents, campers, cabanas or structures similar in nature which are erected for the personal enjoyment of individuals on private property and in which there is no business or commercial activity and are not open to the general public; or

(2) A tent or canopy less than one hundred one (101) square foot footprint and erected for five (5) consecutive days or less.

(Ord. passed 5-11-78; Am. Ord. 15:2002, passed 8-12-02; Am. Ord. 16:2013, passed 7-8-13)

§ 154.252 CERTIFICATE OF OCCUPANCY REQUIRED.

(A) No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a Certificate of Occupancy shall have been issued by the Building Inspector. The certificate shall show that the structure or use, or both, or the premises or the affected part thereof are in conformity with the provisions of the latest building permit. It shall be the duty of the Building Inspector to issue the certificate if he or she finds that all of the provisions of this zoning code have been met and to withhold the certificate unless all requirements of this permit have been met.

(B) Temporary Certificates of Occupancy. A temporary Certificate of Occupancy may be issued by the Building Inspector for a period not exceeding six (6) months, during alterations or partial occupancy of a building pending its completion. He or she may require special conditions or safeguards as he or she deems necessary in order to protect the safety of the public.

(C) Certificate of Occupancy for existing uses or structures. Upon written application from the owner or tenant, and upon inspection to determine the facts in the case, the Building Inspector shall issue a Certificate of Occupancy for any building, premises, or use, certifying that the building, premises or use are in conformity with the provisions of this zoning code, or that a legal nonconformity exists as specified herein.

(D) Structures and uses to be as provided in building permits, plans and Certificates of Occupancy. Building permits or Certificates of Occupancy issued on the basis of plans and applicants approved by the Building Inspector authorize only the use, arrangement and construction set forth in the permits, plans and certificates and no other. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this zoning code.

(Ord. passed 5-11-78)

§ 154.253 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this zoning code occurs or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis thereof and shall be filed with the Building Inspector. He or she shall properly record the complaint, immediately investigate and take action thereon as provided by this zoning code.

(Ord. passed 5-11-78)

SIGN REGULATIONS

§ 154.300 INTENT.

The intent of this subchapter is to provide sign standards and restrictions which allow for the legitimate needs for identification of agricultural, residential, professional office, business, and industrial activities while at the same time promoting signage which does not unduly detract from the overall aesthetics of the community; which reduces

intrusions and protects property values; which provides for improved public safety by minimizing the undue distraction of the motoring public; which provides for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; which is equitably provided in terms of the nature and scale of the activities to be identified and of non-conforming signs; and which generally enhances and strengthens to economic stability of the city.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04)

§ 154.301 APPLICATION.

The provisions of this subchapter shall apply to the display, construction, erection, alterations, use, location and maintenance of all signs within the city and it shall be unlawful hereafter to display, construct, erect, alter, use or maintain any sign except in conformance with provisions of this subchapter, except signs which were in existence prior to the effective date of this subchapter and which were legal under prior ordinances. However, it shall be unlawful to alter or enlarge any sign erected or constructed prior to the enactment of this subchapter except in conformance with this subchapter. Except as specifically provided, the following shall be exempt from the provisions of this subchapter:

(A) Signs which are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way;

(B) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes or to identify streets or to warn of danger. Identification or bulletin board signs accessory to governmental buildings or other facilities shall not be exempt from the provisions of this subchapter;

(C) The flag, pennant or insignia of any nation, organization of nations, state, county or city, any religious, civic or fraternal organization or education institution; except when such are used in connection with a commercial promotion or as an advertising device;

(D) Works of fine art which in no way depict, identify or advertise a product or business;

(E) Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration;

(F) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices;

(G) Merchandise, pictures or models of products or services which are incorporated as an integral part of a window display;

(H) Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of a business, such as signs indicating the name of the owner or business which are affixed or painted onto moving vans, delivery trucks, contractors' vehicles and equipment, rental trucks and trailers, and the like, provided that such signs are clearly incidental to the use of the vehicle in conjunction with a bona fide business and are not for the purpose of display or signs and provided that they are parked or stored in areas appropriate to their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible; and

(I) Signs posted at the Don Hardin Legion Field in the Don Greenhill City Park by the American Legion Post 126 and Rowan County Senior High School baseball team/booster club. Advertising signs may be hung on the fence of said field from March through August. Said signs shall be no larger than four (4) feet by eight (8) feet and be maintained by the organization hanging the sign. Any damaged sign shall be promptly removed.

(J) Corbie Ellington American Legion Post 126 shall be permitted to erect an off-site sign near the Veterans monument between First Street and Bridge Street.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04; Am. Ord. 01:2008, passed 1-14-08; Am. Ord. 42:2008, passed 12-8-08; Am. Ord. 01:2010, passed 1-11-10)

§ 154.302 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or clearly requires a different meaning.

(A) "SIGN." Any writing, pictorial representation, form, emblem, trademark, flag, banner, decoration (including material used to differentiate the sign copy from the background) or any figure which is written printed, projected, painted, constructed, or otherwise displayed upon or designed into a building, board, plate, canopy, awning, window, vehicle, upon any object or device which by reason of its form color, wording, symbol, design, illumination, motion or other characteristic is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, announcement, or of illustrating products.

(B) Basic sign types by function. The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

(1) "ADVERTISING SIGN." A sign which directs attention to a business, product, service or activity generally conducted, sold or offered elsewhere than on the premises where such sign is located.

(2) "ATTRACTION BOARD." A sign which contains no permanent copy, either letters or emblems on which copy is changed manually with changeable letters and which announces special activities on the property.

(3) "AUCTION SIGN." A real estate sign advertising the public sale or property to the highest bidder by one(1) licensed and authorized for that purpose.

(4) "BILL BOARD." See "ADVERTISING SIGN".

(5) "BULLETIN BOARD." A sign which allows the manual changing of the copy material and is used to notify the public of non-commercial events or occurrences such as church services, political rallies, civic meetings or similar events.

(6) "BUSINESS SIGN." A sign which directs the attention to a business, profession, product, activity or entertainment sold or offered upon the premises where such sign is located and may include information as for an identification sign.

(7) "CONSTRUCTION SIGN." A temporary sign identifying the project name, the architect, engineer, contractor, financing company, material supplier or other engaged in work on the construction site on which the sign is located. Leasing information, renderings and similar copy shall also be permitted.

(8) "DIRECTIONAL SIGN." A non-commercial sign of an instructional nature, such as "parking", "exit" or "entrance", displayed solely for the convenience of the public, no more than twenty-five percent (25%) of such sign being devoted to the name or logo of the property, business or profession on the site and containing no business advertising or product trade name identification or listing of any product sold or offered on the premises.

(9) "FLYER." See "HANDBILL.".

(10) "GOVERNMENT SIGN." A temporary or permanent sign erected by any government body for traffic direction, or for designation or direction to any school, hospital, park historic site or other service, property or facility.

(11) "HANDBILL", "FLYER", "POSTER". A written or printed notice displayed, handed out or posted to inform those concerned of something to be done or some event.

(12) "HISTORIC MARKER." A sign or emblem which commemorated or identifies an event, past ownership of property or age of a building.

(13) "INCIDENTAL SIGN." A small sign not exceeding two (2) square feet each limited to information and directions related to permitted use on the lot or building on which the sign is located and containing no direct illumination as defined in this subchapter. Examples of incidental signs would include "no smoking", "no solicitors", "no trespassing", "self-service", "vacancy", credit card acceptance signs, signs indicating hours of business and similar information. It shall contain no advertising copy.

(14) "IDENTIFICATION SIGN." A sign which establishes the identity of a building or building complex by name or symbol or combines name, street address and/or management and has no direct advertising value.

(15) "INFORMATIONAL SIGNS." A sign whose copy gives only the time, temperature and/or date through an electronic message display system or by mechanical means (including clocks and thermometers) and provides no advertising of any product or business activity.

(16) "INTERSTATE OVERLAY AREA." Signs that enhance the vitality of economics in a B-2 Highway Business Zone which are essential to businesses that cater to the motoring public and transient traveler.

(17) "MAXIMUM TOTAL PERMITTED SIGN AREA." The total number of permitted wall or free standing signs multiplied by the maximum total allowed area per each sign. The maximum wall and free standing sign areas shall be calculated separately. For example a four (4) sided building with each side being permitted a thirty-two (32) square foot sign, the total permitted sign area would be one hundred and twenty-eight (128) square feet. If a variance is requested under § 154.308 the maximum allowed variance shall not exceed one hundred and twenty-eight (128)square feet.

(18) "MENU BOARD." A free-standing or wall-mounted sign primarily designed for the display of menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant utilizing drive through service or to advertise occasional special events or sale items.

(19) "NAMEPLATE." A wall sign which gives only the name, address and/or occupation of the occupant(s) of the building on which it is located.

(20) "PERIOD OF USE." Each individual, specific period of time a sign is displayed or permitted to be displayed. Said period of time shall begin with the first day a sign is permitted to be displayed and end with the last day a sign is permitted to be displayed. A "PERIOD OF USE" shall not be less than one day or more than thirty (30) days or be interrupted by a period of non-display.

(21) "POLITICAL SIGN." A temporary sign supporting the candidacy for office or urging action on any other matter on the ballot of a state, local or national election or referendum.

(22) "POSTER." See "HANDBILL".

(23) "REAL ESTATE SIGN." A temporary sign indicating only sale, lease or rental of property or building on which the sign is erected.

(24) "TRACT SIGN." A temporary sign advertising the original sale of property in a subdivision.

(25) "TEMPORARY SIGN." Any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood or other light materials with or without frames and/or intended to be displayed for a limited period of time only.

(C) Types of shopping centers. The types of shopping centers provided for in this section may be generally described as follows:

(1) "NEIGHBORHOOD SHOPPING CENTER." A shopping center that provides for the sale of convenience goods such as food, drugs, hardware and personal services and has a minimum area of one (1) acre.

(2) "COMMUNITY SHOPPING CENTER." A shopping center that provides not only convenience goods but a range of facilities for the sale of "shopping goods" such as apparel and home furnishings as well as banking, professional services and recreation. A community shopping center shall have a minimum of three (3) to ten (10) acres.

(3) "REGIONAL SHOPPING CENTER." A shopping center that provides more and larger facilities than a community shopping center. A regional shopping center shall have a minimum area exceeding ten (10) acres.

(D) Sign types by means of mounting or erecting. The following categories of signs are hereby defined primarily by the means of mounting or erecting and locational placement upon a building or premises.

(1) "AWNING SIGN." A sign painted on or printed on or attached flat against the surface of an awning. As used in this subchapter, awning shall be defined as a shelter supported entirely from an exterior wall of a building consisting of cloth or other similar non-rigid material supported by a frame.

(2) "CANOPY SIGN." A sign painted, printed or attached flat against a surface of a canopy. As used in this subchapter, canopy shall be defined as a permanently-roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

(3) "FREE-STANDING SIGN." A sign not attached to any building and attached to the ground by poles, braces or other means.

(4) "MARQUEE." A sign used in conjunction with a theater or like venue which is attached to and supported by the building and generally projects from the building and which in addition to permanent copy may allow for changeable letters.

(5) "MOBILE SIGNS." Mobile signs are signs which are affixed to a frame having wheels or capable of being carried or otherwise portable; not having a permanent foundation; unable to withstand the stress and wind loads of the Building Code; and designed to stand free from a building or other structure. Signs designed to be affixed to the surface of real estate shall be deemed free-standing signs and not mobile signs, but the mere removal of wheels or temporary securing of a sign to the surface or real estate shall not prevent its being a mobile sign within this definition.

(6) "PAINTED SIGN." Any sign which is applied with paint or similar substance directly to a wall or other surface. Any painted sign shall be subject to the regulations of the zone in which it is located.

(7) "PROJECTING SIGN." A sign which is attached directly to a canopy, marquee or wall of a building and which extends horizontally outward from such canopy, marquee or wall more than twenty-four (24) inches.

(8) "ROOF SIGN." A sign which projects above the cornice of a flat roof or above the top edge of any roof including the ridge line of a gabled or hipped roof. Such top edge shall not include any cupolas, pylons, chimneys or other minor projections above the roof line.

(9) "UNDER-AWNING" or "UNDER-CANOPY SIGNS." A small sign limited to four (4) square feet attached to and suspended from the underside of a canopy or awning and having a clearance of not less than eight (8) feet.

(10) "WALL-MOUNTED SIGN." A sign attached parallel to and extending not more than twenty-four (24) inches from the wall of the building; this includes painted, individual letter and cabinet signs, signs on a mansard or on a parapet not exceeding three (3) feet in height and provided the parapet extends on at least three (3) sides of a building and signs erected on or against the side of a roof but not projecting above the roof line. No copy shall be permitted to be displayed on the side of the sign which are perpendicular to the wall face.

(11) "WINDOW SIGNS." A sign which is painted on, applied or attached to the interior of a window or located within three (3) feet of the interior of a window and which can be seen through the window from the exterior of the structure. Merchandise which is included in a window display shall not be included as part of a window sign.

(E) Sign types by design features. The following categories of signs are hereby defined primarily by certain design features of the sign itself.

(1) "ELECTRONIC MESSAGE DISPLAY SYSTEM." A sign with copy which utilizes rotating reflective disc, direct illumination, rotating veils, light emitting diodes (L.E.D.'s) or liquid crystal diodes (L.C.D.'s) and is changed by means of a central computer teletype.

(2) "FLASHING OR BLINKING SIGN." A sign the illumination of which is not kept constant and which contains an intermittent or sequential flashing light source for the purpose of either attracting attention to the sign or as a method of changing copy.

(3) "ILLUMINATED SIGN." A sign which emits or reflects, either directly or indirectly, artificial light from any source:

(a) "DIRECTLY ILLUMINATED SIGN." A sign which is lighted by means of any unshielded light source (including neon tubing) which is visible as a part of the sign and where light travels directly from the source to the viewer's eye.

(b) "INDIRECTLY ILLUMINATED SIGN." A sign whose light source is so situated as to project light onto the exterior or front of the sign surface or to project light onto the building facade where the sign is located.

(c) "INTERNALLY ILLUMINATED SIGN." A sign whose light source is within the sign with the sign having a transparent or translucent background or cover which silhouettes opaque or translucent letters of designs.

(4) "NON-ILLUMINATED SIGN." A sign which does not emit or reflect artificial light either directly or indirectly from any source.

(5) "ROTATING OR MOVING SIGN." A sign any portion of which moves by mechanical means, motion of the wind or other means. Such motion does not refer to methods of changing copy used on an electronic message display system.

(F) Other sign types and definitions. The following phrases are hereby defined for the purpose of this subchapter.

(1) "ABANDONED SIGN." A sign and/or supporting structure which no longer identifies a business conducted or product sold on the premises; any advertising sign which no longer directs attention to a bona fide business conducted, product sold or activity or campaign being conducted or for which no legal owner can be found. A sign shall be deemed as abandoned when the conditions described above have been in evidence for a period exceeding one hundred and eighty (180) days. For the purposes of this definition an advertising sign shall not be deemed abandoned solely because the sign has contained no copy for a period exceeding one hundred and eighty (180) days.

(2) "AREA OF A SIGN." Shall be defined and computed as follows:

(a) "FREE-STANDING OR PROJECTING SIGNS:"

1. Any double-faced sign shall have only the largest face counted in calculating the area.

2. Any sign with three (3) or more sign faces shall have the area calculated by summing the area of the sign faces and dividing by two (2).

3. If the sign is composed of one (1) or two (2) individual cabinets, the area around the enclosing the perimeter of each cabinet or module shall be summed and totaled to determine the area. The perimeter of the measurable area shall include embellishments such as pole covers, framing, decorative roofing, etc., provided there is no written copy on such embellishments and their total surface area (excluding pole covers, provided such covers do not extend more than six (6) inches at any point from any structural member) does not exceed twenty-five percent (25%) of the otherwise permitted sign area.

4. If the sign is composed of more than two (2) sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single continuous geometric figure shall be the area of the sign. The measurable area shall not include

embellishments such as pole covers, framing, decorative roofing, etc., provided there is no written copy on such embellishments and their total surface area (excluding pole covers, provided such covers do not extend more than six (6) inches at any point from any structural member) does not exceed twenty-five percent (25%) of the otherwise permitted sign area.

(b) "WALL SIGNS." The area shall be within a single continuous perimeter composed of any straight line geometric figure which enclose the extreme limits of the copy including vertical and horizontal spacing between individual letters, logos, etc.

(3) "BANNER SIGN, PENNANT OR STREAMER." An identification sign made of durable fabric only and not made of wood, metal or soft or hard plastic having no enclosing framework. Such banner sign, pennant or streamer may be non-illuminated or indirectly illuminated only. A banner, pennant or streamer shall not be allowed as a business' allowable facade or freestanding permanent sign unless enclosed in a frame which keeps it rigid at all times.

(4) "BUILDING FRONTAGE." The horizontal, linear dimension of that side of a building which abuts a street, parking area or other unenclosed circulation area open to the general public. Where more than one (1) use occupies a building, the building frontage shall be the front width of the portion of the building occupied by that use.

(5) "CLEARANCE OF A SIGN." The least vertical distance between the lowest point of any sign, including the framework, and the established grade at the sign.

(6) "COPY." Any word, letter, number or emblem affixed to the sign surface either permanently or in removable form.

(7) "DOUBLE-FACED SIGN." A sign with two (2) faces either set parallel or up to a forty five (45°) degree angle. Any two (2) sign faces set at an angle greater than forty-five (45°) degree shall be considered two (2) separate signs.

(8) "FACE OF A SIGN." The vertical area of the sign on which the copy is placed.

(9) "HEIGHT OF A SIGN." The vertical distance measured from the highest point of the sign including the frame and any embellishments and the established grade at the adjacent street.

(10) "ILLEGAL SIGN." A sign which does not meet the requirement of this Zoning Code and which does not meet the definition of a non-conforming sign as defined herein.

(11) "NON-CONFORMING SIGN." A sign which was legally erected by which does not comply with the adopted sign regulations of this Zoning Code of the zone in which it is located. For example, a sign which was legal under prior sign regulations in the city, but which is an illegal sign under this definition.

(12) "SETBACK OF A SIGN." The horizontal distance between any street right-of-way and a free-standing sign and/or its supporting structure. The measurement shall be taken at the closest point proximity between the right-of-way and any part of the sign or structure.

(13) "STREET FRONTAGE." The linear distance between the lot lines measured along the abutting public or private street.
(Ord. 06:99, passed 03-08-99; Am. Ord. 14:2000, passed 10-9-00; Am. Ord. 18:2002, passed 8-12-02; Am. Ord. 07:2003, passed 3-10-03; ; Am. Ord. 5:2004, passed 2-9-04; Am. Ord. 24:2004, passed 10-11-04; Am. Ord. 23:2011, passed 7-11-11)

§ 154.303 PERMIT REQUIREMENTS.

(A) Application requirements. No sign, except as specifically exempted herein, shall be displayed, erected, relocated or altered unless and until a permit has been issued by the Building Inspector. Application materials shall be as required by the Building Inspector, and shall include, but shall not be limited to the following:

(1) A completed application form.

(2) A site plan and/or building elevation drawing, showing the location of the proposed sign(s) on the lot and/or building, including setbacks.

(3) Detailed sign information, including type of construction, method of illumination, dimensions, copy, method of mounting and/or erecting and other similar information.

(4) The written consent of the owner of the underlying real property or authorized agent.

(5) The required permit fee.

(6) If a sign is damaged in excess of fifty percent (50%) of its replacement value or is temporarily or permanently removed, it shall require a new permit. In the case of a non-conforming sign, it shall be made to meet current code requirements.

(7) The Building Inspector shall maintain written records of all permits issued or formally denied and any conditions attached to approval of such permit requests. Signs may be erected or constructed only in compliance with the approved permit.

(B) Permit fees. The permit fees are as follows:

| (1) | <u>Area of sign in square feet (sf)</u> | <u>Fee</u> |
|-----|---|--|
| | (a) 0 - 50 | \$50 plus \$1 per square foot (psf) to be calculated on the total sign area |
| | (b) 51 - 100 | \$50 plus \$2 psf to be calculated on the total sign area |
| | (c) Over 100 | \$100, plus \$3 psf to be calculated on the total sign area |
| (2) | In excess of 25 feet in height | \$25 per foot or fraction thereof in addition to the square footage fee stated in (a) - (c) above. |
| (3) | Temporary signs | \$25 per 30-day use |
| (4) | Demolition of sign | \$25 |
| (5) | Moving of sign | \$50 |

(C) Signs exempt from permit requirement. The following signs shall not require a permit. However, such signs are subject to applicable restrictions contained within this subchapter, and the Building Inspector shall take enforcement action against any such sign which does not conform to the specified requirements.

- (1) Political signs
 - (2) Nameplates
 - (3) Government signs
 - (4) Real Estate signs
 - (5) Incidental signs
 - (6) Window signs;
 - (7) The changing of copy on a billboard, attraction, bulletin, menu, marquee, informational sign or electronic message display system;
 - (8) Handbills, flyers, event posters;
 - (9) Yard sale signs; and
 - (10) Initial temporary signs on business premises.
- (Ord. 06:99, passed 3-8-99; Am. Ord. 18:2002, passed 8-12-02; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04; Am. Ord. 24:2011, passed 7-1-11) Penalty, see § 154.999

§ 154.304 GENERAL PROVISIONS.

(A) All real estate and tract signs shall be removed within ten (10) days after completion of sales activities in connection with the property or tract to which they pertain.

(B) Illuminated signs shall be located in a fashion which minimizes to the greatest feasible extent the direct rays of such illumination penetrating into any residential zone or property used for residential purposes.

(C) No light, sign or other advertising device shall be designed or erected in such a manner or location as to imitate or resemble any official traffic sign, signal or device or use any words, phrases, symbols or characters implying the existence of danger or the need to stop or maneuver the vehicle.

(D) No sign, except governmental signs, shall be attached to or painted on the surface of any tree, utility pole, street light standard or dilapidated structure.

(E) Gooseneck and thin line reflectors and lighting shall be permitted on indirectly illuminated signs, provided such do not extend six (6) feet beyond the sign structure to which they are attached and such illumination is directed upon the sign in such a fashion as to reduce the possibility of direct light rays shining onto any adjacent property or public way.

(F) Neon lighting and tubing and other exposed light sources not exceeding one hundred (100) watts per bulb may be used on signs where signs are permitted to be directly illuminated as defined in this subchapter. However, no such light may be used to outline buildings, structures or ornamental features.

(G) No sign (except for government signs), may be located within the required sight triangle of any intersection nor within or projecting into the public or private street right-of-way, except as specifically permitted herein.

(H) Signs accessory to legal non-conforming uses shall be permitted and shall be subject to the regulations of the zone in which the use is located.

(I) Where signs are permitted on a lot on a per-frontage basis under this subchapter, such signs shall be located and oriented to the distinct street frontage by which the sign is permitted. In addition, for free-standing signs permitted on a lot on a per-frontage basis, the signs on that lot may not be closer than seventy-five (75) feet from each other as measured in a straight line.

(J) Where wall signs are permitted as a percentage of the wall area to which it is attached, such wall area shall include all windows, doors and wall area of the building in one plane of elevation. Where the building or wall face is broken or irregular in relation to a single vertical plane perpendicular to the ground (by such architectural features as dormers, pitched roofs, awnings, etc.), the requirements may be applied in one of two ways:

(1) The total building face may be considered as one, two-dimensional wall, and number of signs permitted and maximum area requirements applied on that basis.

(2) Where each individual plane created by the architectural feature projects or is recessed by twelve (12) inches or more, each plane may be considered as a separate wall and number of signs permitted and maximum area requirements applied on that basis. However, the total square footage of the permitted signs shall not exceed the square footage permitted under § 154.304(J) (1), above, and no sign shall be oriented in a direction other than that of the building face under consideration.

(K) No incidental sign shall be attached to a free-standing advertising sign, business sign, identification sign or directional sign.

(L) Canopy signs shall be counted as part of and limited to the percentage allowable for wall signs. The height of canopy signs shall not exceed twenty (20) feet. For any case where the vertical dimension of the canopy face exceeds three (3) feet, only three (3) of the vertical dimension shall be used for computing the area of such facing, and any sign or sign cabinet permitted shall have a maximum vertical dimension of three (3) feet.

(M) Where more than one (1) use occupies a building, the permitted sign area shall be based on the building frontage of that use.

(N) Street or building frontage used as a basis of determining permitted sign area for a building or use shall not be used as the basis for determining the permitted sign area for another building or use.

(O) Display of signs over public streets and rights-of-way.

(1) All signs, banners, pennants or like devices that are to be displayed across any public street or way shall conform to the following guidelines satisfactorily to the Building Inspector:

(a) Said sign shall be constructed of a flexible rip-stop type material.

(b) Said sign shall have reinforced edges with metal or other satisfactory grommets at each corner and every twenty-four (24) inches along all edges.

(c) Said sign shall have a reinforced vent opening of a minimum of two square inches for each six (6) square foot of sign area to relieve wind pressure on the sign.

(d) Said sign shall maintain a minimum distance of thirteen (13) feet from the street or other grade to the bottom of the sign.

(e) Said sign shall have four points of attachment and be supported along the full length of its top edge by a stranded steel cable with a minimum diameter of three-sixteenths (3/16) inches and a breaking strength of five thousand (5,000) pounds or greater and be anchored to stable utility poles or other structures to prevent detachment, sliding, or slipping. The sign shall be attached to the steel cable at each grommet point by cable or similar device.

(f) The main body of the sign or banner shall be a minimum of twenty four (24) inches wide and equal to the edge-to-edge distance of the street pavement over which it is to be displayed.

(g) At no time shall the sign or banner be allowed to be displayed in a detached, frayed, tattered, ripped or otherwise unsightly condition.

(2) Further, the applicant shall provide proof of general liability insurance in the amount of ten thousand dollars (\$10,000) with the city named as the insured and sign a waiver of liability and hold harmless agreement. It shall be the responsibility of the applicant to have the sign properly erected. The city shall not erect the sign or banner.

(P) Properly permitted on premises, signs may display non-commercial messages in lieu of advertising text or copy. For example God Bless America, Support the Army National Guard, etc.

(Q) In the case where a business is permitted a free standing sign and there exists a fence which meets the specified set back and height criteria, a sign may be displayed or attached to said fence. Should the fence obscure a business's facade or wall which would otherwise be a permitted surface, a sign may be displayed or attached to said fence. (Ord. 06:99, passed 3-8-99; Am. Ord. 18:2002, passed 8-12-02; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.305 PROHIBITED SIGNS IN ALL ZONES.

The following signs and/or sign features shall be prohibited in all zones.

(A) Mobile signs.

(B) Projecting signs (except as permitted in § 154.304(J) (2) as a conditional use sign).

(C) Roof signs.

(D) Flashing or blinking signs, except for permitted informational signs.

(E) Rotating or moving signs.

(F) Abandoned signs.

(G) Streamers, pennants and tag signs or similar signs or devices made of wood, plastic, metal or similar material, other than cloth, except when attached to a permitted temporary sign.

(H) Any sign which emits any noise, odor or visible matter for the purpose of attracting attention to the sign.

(I) Any free-standing sign, any portion of which overhangs any part of a building.

(J) Any offsite or advertising sign.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.306 PERMITTED SIGNS IN ALL ZONES.

The following signs shall be permitted within all zones subject to the restrictions specified.

(A) Government signs with no restriction on size, number or location.

(B) Political signs, not exceeding four (4) square feet in area and limited to six (6) feet in height, and positioned a minimum of ten (10) feet from the street or right-of-way; and removed within ten (10) days after such election.

(C) Real estate signs including auction signs, limited to one (1) sign per street frontage; non-illuminated; not exceeding six (6) square feet in area and six (6) feet in height; and removed within ten (10) days after completion of sale activities or lease of the property to which they pertain. Additionally each auction sign shall be limited to one (1) on-site free-standing sign per street frontage and limited to a total of two (2) signs per parcel, one (1) facade sign and one (1) off-site directional sign. Each auction sign shall not exceed sixteen (16) square feet in area, six (6) feet in height and shall be positioned a minimum of ten (10) feet from the street or right-of-way. Auction signs shall be displayed no earlier than thirty (30) days prior to the sale for on-site signs and twenty-one (21) days for off-site signs and shall be removed ten (10) days following completion of the sale.

(D) Construction signs, not exceeding sixty-four (64) square feet limited to one (1) per street frontage in multi-family residential, office, business, and industrial zones, or where one (1) sign is to be utilized, the permitted sign area may be totaled by summing the square footage permitted on each street frontage. In agricultural, single family and two-family zones, construction signs shall not exceed thirty-two (32) square feet and shall be limited to one (1) per street frontage. All construction signs shall be non-illuminated or indirectly illuminated and shall be removed prior to issuance of an occupancy permit for the structure to which they pertain.

(E) Tract signs, setback from any street as required for a principal structure within the zone; non-illuminated; and further regulated as follows:

(1) Where the subdivision contains twenty-five (25) lots or less, the sign area shall not exceed sixty-four (64) square feet.

(2) Where the subdivision contains more than twenty-five (25) lots, the sign area shall not exceed one hundred (100) square feet.

(3) Each subdivision shall be permitted one (1) tract sign per arterial or collector street frontage; provided the total number of signs shall not exceed four (4) signs.

(F) Incidental signs.

(G) Temporary signs, not specifically otherwise regulated, in accordance with the following conditions:

(1) Each business premises shall be permitted to display one (1) temporary sign or banner upon any building, canopy, permanent sign or permitted fence structure upon its premises without any time restrictions.

(2) Said signs or banners shall not exceed one hundred (100) square feet in surface area where non-rigid materials are used and shall not exceed thirty-two (32) square feet in surface area where rigid materials such as wall board or plywood are used. A permit or fee shall not be required for these initial signs or banners.

(3) Each business premises shall be permitted to display an additional second sign or banner upon any building or canopy structure upon its premises if the following conditions are met. Such signs shall not exceed one hundred (100) square feet in surface area where non-rigid materials are used; and shall not exceed thirty-two (32) square feet where rigid materials such as wallboard or plywood are utilized. Such signs shall not remain in place for a period of use of more than thirty (30) days, except that the Building Inspector of the city may for good cause, extend the time period for an additional thirty (30) days upon application and payment of a twenty-five dollar (\$25) fee per each thirty (30) day period of use.

(4) All temporary signs or banners shall be set back a minimum of fifteen (15) feet from a public street or roadway. Temporary signs shall be removed by the next day following the completion of the activity being advertised.

(5) Each business premises shall be limited to two (2) temporary signs at any given time. Further, a permanent sign shall have only one (1) temporary sign or banner displayed upon it at any time.

(6) All temporary signs or banners shall comply with the applicable regulations for the zone in which they are located.

(H) Historic markers not exceeding six (6) square feet in area, limited to one (1) sign per street frontage.

(I) Handbills, flyers, posters and similar devices or means that are displayed for public viewing shall be limited to the advertising of events or things of a like nature. Said signs shall not advertise an off-site business. This provision is not intended to limit or interfere with the distribution or passing out of any literature on a person-to-person basis. (Ord. 06:99, passed 3-8-99; Am. Ord. 14:2000, passed 10-9-00; Am. Ord. 18:2002, passed 8-12-02; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 5:2004, passed 2-9-04; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.307 PERMITTED SIGNS BY ZONE.

The following sign regulations shall be applicable within the zoning categories indicated. Any sign not specifically permitted shall be deemed as prohibited.

(A) Agricultural zones. Permitted signs within these zones may be either free-standing or wall-mounted unless otherwise specified; no free-standing sign may exceed ten (10) feet in height; signs shall be either non-illuminated or indirectly illuminated unless otherwise specified.

(1) One (1) nameplate per residence or other permitted use; not exceeding one (1) square foot in area.

(2) One (1) identification sign for a permitted home occupation, or a bed-and-breakfast facility permitted as a conditional use, not exceeding two (2) square feet in area.

(3) One (1) identification sign for a farm or estate; not exceeding ten (10) square feet.

(4) One (1) identification sign for any permitted use not otherwise specifically provided for; not exceeding thirty-two (32) square feet in area.

(5) One (1) identification sign for a permitted church or school for academic instruction; free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free-standing; in addition, one (1) bulletin board not exceeding twelve (12) square feet in area and eight (8) feet in height.

(6) One (1) non-illuminated business sign advertising agricultural products grown or raised on the premises; not exceeding thirty-two (32) square feet in area.

(7) For farms utilizing more than one (1) point of access, one (1) non-illuminated or indirectly illuminated sign per entrance indicating the name of the farm and directional information as necessary to provide information as to the particular farm activity which must be served by only that point of access; not to exceed ten (10) square feet in area; maximum height of ten (10) feet.

(8) Subdivision entrance identification signs of permanent construction; free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area; no more than two (2) per entrance; not more than two (2) entrances to be identified. Such signs may be located in the right-of-way (in the median or at each side of the street) subject to written authorization of the Commissioner of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.

(9) The minimum set back shall be one-half (1/2) the required set back for a principal building but not less than ten (10) feet in any case.

(B) Low-density residential zones (R1,R2). Permitted signs within these zones shall be wall signs unless otherwise specified; signs shall be either non-illuminated or indirectly illuminated. Minimum setback for any free-standing sign permitted under this section shall be one-half (½) the minimum front yard requirement for the zone in which the sign is to be located; and no less than ten (10) feet in any case.

(1) One (1) nameplate per residence or other permitted use; not exceeding one (1) square foot in area.

(2) One (1) identification sign for a permitted home occupation not exceeding six (6) square feet in area.

(3) One (1) identification sign, for a farm or estate exceeding five (5) acres in size; free-standing or wall-mounted; not exceeding ten (10) square feet in area; not exceeding ten (10) feet in height if free-standing.

(4) One (1) identification sign for a permitted kindergarten, nursery school, day nursery or child care center; wall-mounted not more than seven (7) feet above ground level; not exceeding two (2) square feet in area.

(5) One (1) identification sign for a permitted church or school for academic instruction; free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free-standing; in addition, one (1) bulletin board free-standing or wall-mounted not exceeding twelve (12) square feet in area and eight (8) feet in height.

(6) One (1) identification sign for any permitted use not otherwise specifically provided for; free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free-standing.

(7) Subdivision entrance identification sign of permanent construction; free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area; not exceeding six (6) feet in height if free-standing; no more than two (2) per entrance; not more than two (2) entrances to be identified. Such signs may be located in the right-of-way (in the median or at each side of the street) subject to written authorization of the Director of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.

(8) One (1) identification sign for a bed-and-breakfast facility permitted as a conditional use; free-standing or wall-mounted; not exceeding two (2) square feet in area; not exceeding six (6) feet in height if free-standing.

(C) High-density residential zones (R3, R4). Permitted signs within these zones shall be free-standing or wall-mounted as specifically noted; signs shall be either non-illuminated or indirectly illuminated.

(1) Signs as permitted and regulated under § 154.307(B) above.

(2) One (1) identification sign for a multi-family residential building containing four (4) or more dwelling units and not located within a group residential project; free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in

height if free-standing; minimum setback of at least twenty (20) feet from any street or property line.

(3) Identification sign(s) for a group residential project; one (1) sign per street frontage with a maximum of two (2) signs: free-standing or wall-mounted; not exceeding thirty-two (32) square feet in area per sign; not exceeding eight (8) feet in height if free-standing; minimum setback of at least twenty (20) feet.

(D) Signs permitted in the highway, general and industrial business zones (B-1, B-2, I-1). Permitted signs may be free-standing or wall-mounted as specified; the sign may be non-illuminated, directly illuminated, internally-illuminated or indirectly-illuminated unless specified otherwise; no free-standing business sign shall exceed twenty-five (25) feet in height;

(1) Business signs shall be permitted as follows:

(a) One (1) free-standing business sign per lot shall be permitted per street frontage with a maximum of two (2) free-standing signs per lot; not exceeding one hundred (100) square feet per sign; minimum setback shall be one-half the setback required for a principal building but not less than ten (10) feet. In the case that more than one (1) business occupies a building or is located on a lot, the total signage area for all freestanding signs shall not exceed two hundred (200) square feet. No variance shall be allowed for this section.

(b) The surface area of wall-mounted business signs shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet whichever is greater, each wall to be considered separately. Only one (1) business sign shall be permitted per wall. In the case of a building containing two (2) or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant. The sign shall not project more than twelve inches (12") beyond the surface and shall not extend above the top or beyond the ends of the facade. All signs projecting perpendicular to the facade shall not exceed the fifteen percent (15%) or thirty-two (32) square-foot limitation, shall not project into the street right-of-way and the bottom of the said sign shall be at least ten (10) feet above the finished grade of the sidewalk or ground.

(c) Window signs shall be permitted limited to no more than twenty-five percent (25%) of total window area. Said signs may consist of but are not limited to flyers, posters, handbills, etc. Said signs may advertise products or events on the premises or off-site events. Window signs shall not advertise off-site businesses.

(d) Canopy or awning signs shall be permitted and included in the computation of the maximum permitted sign area and limited to the percentage allowable for wall signs. Under-canopy or under-awning signs shall be permitted and limited to identification signs.

(2) Interstate overlay signs-pole height shall have a minimum of ninety (90) feet and maximum of one hundred (100) feet. Face plates may be single or goal-post design with a maximum of two (2) two hundred and forty (240) square feet area signs. Post shall be located within one hundred forty-five (145) feet of Kentucky Route 32 and six hundred forty (640) feet from the center line of the adjoining lane of Interstate 64 closest to the property. The connecting triangle of this distance shall not exceed six hundred eighty (680) feet.

(3) Directional signs not exceeding six (6) square feet in area; not exceeding three (3) feet in height; if free-standing not to exceed two (2) signs per entrance.

(4) One (1) nameplate per tenant or lessee; not exceeding two (2) square feet in area; not illuminated or indirectly illuminated.

(5) Informational signs, not exceeding twenty (20) square feet. Such signs shall be included in the computation for maximum square footage specified above, and shall be free-standing only when included as a part of a permitted free-standing identification sign.

(6) One (1) menu board per restaurant use; all copy (including any logos, restaurant name, etc.) shall have a maximum letter height and width of six (6) inches containing no direct illumination; not exceeding thirty (30) square feet in area; maximum height of eight (8) feet if free-standing; and not located so as to have the copy visible to vehicular traffic on any adjacent street.

(7) In conjunction with an indoor theater, one (1) marquee not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one (1) attraction board attached to one (1) free-standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area. (Note: where an attraction board attached to a free-standing business sign is not utilized, a second marquee, mounted on a different building face, shall be permitted as regulated above.)

(8) One (1) attraction board, wall-mounted or attached to a permitted free-standing business sign; the area of the attraction board to be included in the maximum permitted sign area.

(E) Signs permitted in the central business zones (B-3). Permitted signs may be free-standing or wall-mounted as specified; such signs may be non-illuminated, directly illuminated, internally illuminated or indirectly illuminated unless specified otherwise; painted overall sign shall be prohibited.

(1) Business signs shall be permitted as follows:

(a) Permitted signs shall identify only the premises on which they are located and shall contain only the name and type of establishment and one trademark or logo.

(b) One (1) free-standing sign shall be permitted for each street frontage, not to exceed two (2) free-standing signs. The free-standing signs shall have a maximum area of forty (40) square feet, a maximum height of twenty (20) feet; minimum setback shall be one-half (1/2) the required set back for a principal building, but not less than ten (10) feet. In the case that more than one (1) business occupies a building or is located on a lot, the total signage area for all free standing signs shall not exceed forty (40) square feet.

(c) The surface area of wall-mounted business signs shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet whichever is greater, each wall to be considered separately. Only one (1) business sign shall be permitted per

wall. In the case of a building containing two (2) or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant. The sign shall not project more than twelve inches (12") beyond the surface and shall not extend above the top or beyond the ends of the façade. All signs project perpendicular to the façade shall not exceed the fifteen percent (15%) or thirty-two-square-foot (32) limitation, shall not project into the street right-of-way, and the bottom of the said sign shall be at least ten (10) feet above the finished grade of the sidewalk or ground.

(d) Window signs shall be permitted limited to no more than twenty-five percent (25%) of total window area. Said signs may consist of but are not limited to flyers, posters, handbills, etc. Said signs may advertise products or events on the premises or off-site events. Window signs shall not advertise off-site businesses.

(e) Canopy or awning signs attached to the building shall be permitted and included on the computation of the maximum permitted sign area and limited to the percentage allowable for wall signs. Under-canopy or under-awning signs shall be permitted and limited to identification signs.

(f) Free-standing canopies, e.g. for gas pumps and service stations, shall comply with the fifteen percent (15%) of the facade area. The copy must be part of or applied directly to the structure. No banners shall be attached to the canopy structures.

(2) Directional signs not exceeding six (6) square feet in area; not exceeding three (3) feet in height; if free-standing not to exceed two (2) signs per entrance.

(3) One (1) nameplate per tenant or lessee; not exceeding two (2) square feet in area; not illuminated or indirectly illuminated.

(4) Informational signs, not exceeding twenty (20) square feet. Such signs shall be included in the computation for maximum square footage specified above, and shall be free-standing only when included as a part of a permitted free-standing identification sign.

(5) One (1) menu board per restaurant use; all copy (including any logos, restaurant name, etc.) shall have a maximum letter height and width of six (6) inches containing no direct illumination; not exceeding thirty (30) square feet in area; maximum height of eight (8) feet if free-standing; and not located so as to have the copy visible to vehicular traffic on any adjacent street.

(6) In conjunction with an indoor theater, one (1) marquee not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one (1) attraction board attached to one (1) free-standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.

(Note: where an attraction board attached to a free-standing business sign is not utilized, a second marquee, mounted on a different building face, shall be permitted as regulated above.)

(7) One (1) attraction board, wall-mounted or attached to a permitted free-standing business sign; the area of the attraction board to be included in the maximum permitted sign area.

(F) Planned shopping centers. Signs within shall be permitted and regulated as for B-1, B-2 [154.307(D)] except as follows:

(1) In place of the free-standing signs permitted under division (D), above, the only permitted free-standing signs shall be shopping center identification signs. One (1) sign shall be permitted per street frontage, with a maximum of two (2) signs. The maximum square footage of each sign shall be two hundred (200) square feet, with a maximum height of twenty-five (25) feet for a regional shopping center; and one hundred fifty (150) square feet with a maximum height of twenty-five (25) feet in a community or neighborhood shopping center. Tenants of one (1) shopping center may use the same support structure for their sign. The changing of an individual business tenant sign on the main support structure shall require a permit, but no additional fee. An attraction board may be attached to the free-standing sign provided it does not exceed the area of the identification sign and provided that no permanent copy identifying any specific business or product sold within the center is included on the attraction board. The area of the attraction board shall be included in the computation of the area of free-standing sign. The copy on such an attraction board shall be limited to sales or other events on the premises and civic meetings, rallies or other non-commercial events on or off the premises.

(2) The wall-mounted signs shall show only the name and/or logo of the business or profession, and shall contain no product trade name identifications. A listing of any products sold or offered on the premises may be an integral part of, and incorporated into each permitted wall sign, provided the listing occupies no more than fifty percent (50%) of the area of the sign.

(3) Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.

(4) Non-illuminated or directly illuminated projecting signs may be permitted only as a conditional use as described under division (D)(1)(b), above, where the purpose of such projecting signs is to be to create a unified and distinct shopping area design and where such signs will be utilized in place of wall signs.

(G) Mobile Home Parks - Permitted signs shall be either non-illuminated or indirectly illuminated and shall be subject to the following:

(1) One (1) free-standing mobile home park identification sign shall be permitted; sign not to exceed thirty-two (32) square feet in area; not exceeding eight (8) feet in height, minimum setback of twenty (20) feet from any street.

(2) One (1) nameplate per mobile home; not exceeding one (1) square foot in area.

(H) Public; semi-public zones. All signs in said zone that are not of a government or public nature shall comply with the guidelines set forth in the most restrictive adjoining zone.

(Ord. 06:99, passed 3-8-99; Am. Ord. 18:2002, passed 8-12-02; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04; Am. Ord. 01:2009, passed 2-9-09; Am. Ord. 25:2011, passed 7-11-11) Penalty, see § 154.999

§ 154.308 VARIANCES.

(A) The Board of Zoning Adjustment shall have the authority to hear and decide on applications for variances to the dimensional requirements contained therein accordance with § 154.212(c) of this Zoning Code. The Board shall not be authorized to increase the number of permitted signs; and may not permit any sign to be erected or mounted to incorporate any design feature, information or copy; not to permit a design type that is not specifically permitted in the zone in which the sign is to be located; nor to grant any variance which would increase the maximum total permitted sign area on a single lot or building.

(B) Before granting a variance to the dimensional requirements for a sign the Board shall find all of the following which shall be recorded along with any imposed conditions or restrictions in the minutes and records and issued in written form to the applicant to constitute proof of the variance.

(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

(2) The strict application of the provisions of the sign regulations of the Zoning Code would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.

(3) Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of the sign regulation of this Zoning Code.

(4) Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04)

Cross-reference:

Nuisances, see Ch. 92

§ 154.309 NON-CONFORMING SIGNS.

A legal non-conforming sign may continue in existence and shall be properly maintained in good condition. These sign regulations shall not be construed to prevent the strengthening, repair or restoring to a safe condition any sign, but a non-conforming sign shall not be:

(A) Changed to another non-conforming sign; except where only the faces or the messages are changes or where the sign is reduced in height, size or area;

(B) Structurally altered (except to meet safety requirements) so as to prolong the life of the sign;

(C) Altered so as to increase the degree of non-conformity of the sign;

(D) Expanded or enlarged;

(E) Re-established after its discontinuance for ninety (90) days;

(F) Moved to a new location on the building or lot;
(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04)

§ 154.310 DISCONTINUANCE OF ILLEGAL SIGNS.

Mobile sign prohibited under § 154.305(A) are illegal signs and are subject to immediate enforcement action.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.311 DISCONTINUANCE OF TEMPORARY SIGNS.

Any temporary sign erected or displayed more than ninety (90) days prior to the date of passage of this subchapter shall be removed forthwith.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.312 SIGNS AS CONDITIONAL USES.

The Board of Adjustment shall have the authority to approve conditional uses for signs which are specifically listed in the zone in question. Such signs shall be subject to all provisions and procedures as set forth in § 154.210 for a conditional use permit.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04)

§ 154.313 MAINTENANCE AND CONSTRUCTION STANDARDS.

Every sign including those signs for which a permit is not required, shall be maintained in good condition at all times subject to the following:

(A) All signs shall be constructed of materials and by accepted methods to provide sufficient structural integrity to withstand all imposed loads, uplift and lateral forces as set forth for structures in the Kentucky Building Code.

(B) Any painted wall sign shall be repainted at least once every three (3) years.

(C) All signs which contain painted parts shall be kept neatly painted including metal parts which are not galvanized or of rust-resistant materials.

(D) The Building Inspector shall have the authority to order the repair, repainting, alteration or removal of any sign which constitutes a hazard to the health, safety or public welfare or which is an eyesore to the community by reason of inadequate maintenance, dilapidation or obsolescence.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.314 SPECIAL SIGN REGULATIONS.

(A) No signs shall be erected on public property within the city limits except those erected by the city;

(B) No special permission shall be given or granted by the city for the erection or posting of any sign upon public property within the city limits except by Municipal Order;

(C) Streamers, tag signs, merchandise display boards or other similar devices shall not be added to any sign, except permitted temporary signs.

(D) Spotlights, floodlights, luminous tubes or lighted signs shall not be installed in any manner which will permit the direct rays of the light to penetrate into any residence zone, or onto any property used for residential purposes.

(E) Any temporary sign shall be removed within ten (10) days after the completion of the activity being advertised.

(F) Sign shall not project into the line of vision of a motorist from a moving lane of traffic. No sign shall stand within one hundred fifty (150) feet of a traffic-control sign.

(G) Any exterior signs advertising or identifying a business shall be removed within thirty (30) days after the business closes or moves.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04) Penalty, see § 154.999

§ 154.315 COMMUNITY SIGN BOARD.

(A) Organizations permitted to place signs on the logo sign-board must be civic organizations established for at least one (1) year in a non-profit, 501(c) tax exempt status of the Internal Revenue Code.

(B) Organizations shall be responsible for obtaining the sign and for the cost of the sign. The sign shall be a maximum of 24 inches x 24 inches and a minimum of 18 inches x 18 inches and shall be made of highway sign grade material.

(C) Organizations shall provide their logo sign to the City Planner/Inspector for approval. The City of Morehead Public Works Department shall install all signs on the sign-board.

(D) The city reserves the right to remove rusted, dilapidated signs. The organization shall be notified if its sign is removed and shall be responsible for the cost of any replacement sign.

(Ord. 33:2007, passed 9-10-07)

§ 154.316 ENFORCEMENT.

The Building Inspector shall enforce the provisions of this subchapter and shall utilize his/her powers to ensure compliance with its provisions and the provisions of any approved permit. The Building Inspector shall maintain written records of any enforcement actions taken. Any person, corporation, partnership etc. in violation of this subchapter will be subject to the penalties set forth in § 154.999.

(Ord. 06:99, passed 3-8-99; Am. Ord. 07:2003, passed 3-10-03; Am. Ord. 24:2004, passed 10-11-04; Am. Ord. 33:2007, passed 9-10-07)

§ 154.999 PENALTY.

(A) Any person in violation of this chapter may be issued a Notice of Violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer. If the Code Enforcement Officer believes that the violation presents a serious threat to the public health, safety and welfare or if in the absence of immediate action the effects of the violation will be irreparable or irreversible or the violation is a repeated violation, the Code Enforcement Officer may issue a citation without a Notice of Violation. If the citation is not contested by the offender, the following penalties shall apply; however, the Code Enforcement Board may waive all or any portion of said penalty if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with Chapter 154.

- (1) First offense: \$100.00
- (2) Second offense: 125.00
- (3) All others: 150.00

(B) If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board.

- (1) First Offense: \$ 500.00
- (2) Second Offense: 750.00
- (3) All Others: 1,000.00

(Ord. 20:97, passed 8-11-97)